

Sydney North Planning Panel Meeting 06 December 2023
43-47 KENNETH STREET, LONGUEVILLE

Subject: 43-47 Kenneth Street, Longueville
Record No: DA23/72-01 - 68009/23
Division: Planning and Sustainability Division
Author(s): Greg Samardzic

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| Panel Reference | PPSSNH-405 |
| DA Number | DA 72/2023 |
| LGA | Lane Cove Council |
| Proposed Development | Alterations and additions to an existing private hospital (Longueville Private Hospital) |
| Street Address | Nos. 43-47 Kenneth Street, Longueville |
| Applicant/Owner | Applicant: Richard Dib – Macquarie Health Owners: Thomas and David Wenkart |
| Date of DA lodgement | 26 June 2023 |
| Total number of Submissions Number of Unique Objections | <ul style="list-style-type: none"> Approximately 44 separate submissions As above <p>Note: All submissions have been forwarded to the Sydney North Planning Panel for their consideration</p> |
| Recommendation | Refusal |
| Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021) | 'Private infrastructure and community facilities' or 'Health services facilities' type development which has a capital investment value of more than \$5 million. |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> relevant environmental planning instruments <ul style="list-style-type: none"> SEPP (Resilience and Hazards) 2021. SEPP (Transport and Infrastructure) 2021. SEPP (Biodiversity and Conservation) 2021. SEPP (Planning Systems) 2021. Lane Cove Local Environmental Plan 2009. proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority <ul style="list-style-type: none"> N/A relevant development control plan <ul style="list-style-type: none"> Lane Cove Development Control Plan relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 <ul style="list-style-type: none"> N/A |

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| | <ul style="list-style-type: none">• relevant regulations e.g. Regs 92, 93, 94, 94A, 288<ul style="list-style-type: none">- Clause 92(1)(b) – Demolition of Structures• coastal zone management plan<ul style="list-style-type: none">- Nil• other relevant plans<ul style="list-style-type: none">- Lane Cove Section 7.11 Contributions Plan | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| List all documents submitted with this report for the Panel’s consideration | <table><tr><th>Annex.</th><th>Document</th><th>Prepared By</th></tr><tr><td>1</td><td>Neighbour Notification Map and Letter</td><td>Lane Cove Council</td></tr><tr><td>2</td><td>Architectural Plans</td><td>Imagescape Design Studios</td></tr><tr><td>3</td><td>Landscape Plans</td><td>Vision Dynamics</td></tr><tr><td>4</td><td>Landscape Checklist</td><td>Fona Fang Landscape Designer</td></tr><tr><td>5</td><td>Statement of Environmental Effects</td><td>BBF Town Planners</td></tr><tr><td>6</td><td>Applicant’s Written Clause 4.6 Justification</td><td>BBF Town Planners</td></tr><tr><td>7</td><td>Pre-DA Notes</td><td>Lane Cove Council</td></tr><tr><td>8</td><td>Access Report</td><td>Trevor R Howse</td></tr><tr><td>9</td><td>Acoustic Report</td><td>PWNA</td></tr><tr><td>10</td><td>Arborist Report</td><td>“Growing My Way” Tree Consultants</td></tr><tr><td>11</td><td>Cost Summary</td><td>BERCO</td></tr><tr><td>12</td><td>Chemical Storage Schedule Report</td><td>Imagescape Design Studios</td></tr><tr><td>13</td><td>Drainage Plans</td><td>Bekker</td></tr><tr><td>14</td><td>Survey Plan</td><td>Berveridge Williams</td></tr><tr><td>15</td><td>Traffic Report</td><td>Transport Strategies</td></tr><tr><td>16</td><td>Waste Management Report</td><td>-</td></tr><tr><td>17</td><td>Notification Plans</td><td>Imagescape Design Studios</td></tr><tr><td>18</td><td>Unsatisfactory Letter</td><td>Lane Cove Council</td></tr><tr><td>19</td><td>Private Hospital Development Summary for the Community</td><td>Longueville Private Hospital</td></tr><tr><td>20</td><td>Sydney North Planning Panel (SNPP) Briefing Notes</td><td>Lane Cove Council</td></tr><tr><td>21</td><td>Record of Briefing</td><td>SNPP</td></tr></table> | Annex. | Document | Prepared By | 1 | Neighbour Notification Map and Letter | Lane Cove Council | 2 | Architectural Plans | Imagescape Design Studios | 3 | Landscape Plans | Vision Dynamics | 4 | Landscape Checklist | Fona Fang Landscape Designer | 5 | Statement of Environmental Effects | BBF Town Planners | 6 | Applicant’s Written Clause 4.6 Justification | BBF Town Planners | 7 | Pre-DA Notes | Lane Cove Council | 8 | Access Report | Trevor R Howse | 9 | Acoustic Report | PWNA | 10 | Arborist Report | “Growing My Way” Tree Consultants | 11 | Cost Summary | BERCO | 12 | Chemical Storage Schedule Report | Imagescape Design Studios | 13 | Drainage Plans | Bekker | 14 | Survey Plan | Berveridge Williams | 15 | Traffic Report | Transport Strategies | 16 | Waste Management Report | - | 17 | Notification Plans | Imagescape Design Studios | 18 | Unsatisfactory Letter | Lane Cove Council | 19 | Private Hospital Development Summary for the Community | Longueville Private Hospital | 20 | Sydney North Planning Panel (SNPP) Briefing Notes | Lane Cove Council | 21 | Record of Briefing | SNPP |
| Annex. | Document | Prepared By | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | Neighbour Notification Map and Letter | Lane Cove Council | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | Architectural Plans | Imagescape Design Studios | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | Landscape Plans | Vision Dynamics | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | Landscape Checklist | Fona Fang Landscape Designer | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | Statement of Environmental Effects | BBF Town Planners | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | Applicant’s Written Clause 4.6 Justification | BBF Town Planners | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | Pre-DA Notes | Lane Cove Council | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | Access Report | Trevor R Howse | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | Acoustic Report | PWNA | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | Arborist Report | “Growing My Way” Tree Consultants | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11 | Cost Summary | BERCO | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12 | Chemical Storage Schedule Report | Imagescape Design Studios | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13 | Drainage Plans | Bekker | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 | Survey Plan | Berveridge Williams | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | Traffic Report | Transport Strategies | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 16 | Waste Management Report | - | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17 | Notification Plans | Imagescape Design Studios | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 | Unsatisfactory Letter | Lane Cove Council | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 19 | Private Hospital Development Summary for the Community | Longueville Private Hospital | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 20 | Sydney North Planning Panel (SNPP) Briefing Notes | Lane Cove Council | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 21 | Record of Briefing | SNPP | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Clause 4.6 requests | Applicable | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Summary of key submissions | <ul style="list-style-type: none">• FSR• Built Form• Building Setbacks• Excavation• Number of Storeys• Car Parking/Traffic; and• Landscaping/Tree Impacts | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| Report prepared by | Greg Samardzic – Senior Town Planner |
| Report date | 22 November 2023 |

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No – refusal is recommended**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

The Development Application is for the alterations and additions to an existing private hospital (Longueville Private Hospital) over part two and three levels to primarily include an additional 19 beds on land known as Nos. 43–47 Kenneth Street, Longueville.

The Development Application is referred to the Sydney North Planning Panel for determination under SEPP (Planning Systems) 2021 as the Capital Investment Value exceeds \$5 million for a 'private infrastructure and community facilities' or 'Health services facilities' type development.

The proposal has been assessed against the relevant parts of Section 4.15 of the Environmental Planning and Assessment Act, 1979. A detailed assessment of the relevant environmental planning instruments is provided within this report in more detail. A summary of the matters requiring consent authority satisfaction is provided in **Table 1** below.

| Table 1 – EPI Matters to be Satisfied | | |
|--|--|---|
| EPI | Clause | Recommendation Summary |
| SEPP Resilience and Hazards 2021 | 4.6 – Contamination and remediation to be considered in determining an application. | The subject site would likely be suitable for the continued hospital use. |
| LCLEP 2009 – Earthworks | 6.1A - This clause generally requires development consent for earthworks and requires that the consent authority consider certain matters before granting consent for earthworks to ensure the | The proposed earthworks would not have a direct detrimental impact on environmental functions or surrounding lands although the extent of excavation is not |

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| | works will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. | supported as it would be inconsistent with the low-density residential character of the Longueville locality. |
| SEPP (Biodiversity and Conservation) 2021 | 6.6–6.10 – These clauses generally require the consent authority to consider the impacts of development that would occur onto matters such as water quality/quantity, aquatic ecology, flooding, recreation, public access and total catchment management. | Satisfied - the proposal would provide for appropriate stormwater management to protect the catchment including pollutant control measures in place. |

The subject Development Application has been assessed against the requirements of the relevant planning instruments and there are substantial variations proposed with respect to developments standards or controls such as:

- **LEP FSR Development Standards;**
- **DCP Minimum Rear Building Setback Control;**
- **DCP Minimum Landscaped Area Control;**
- **DCP Maximum Cut Control; and**
- **DCP Minimum Car Parking Numbers Control.**
- **DCP Maximum Number of Beds Control**

The proposed development is not compliant with the relevant numerical **0.5:1** and **0.6:1** FSR Development Standards of Lane Cove LEP 2009. In relation to the component of the development located on the portion of the subject site having a maximum prescribed FSR of **0.5:1** (1045.15m²), the development proposes 1886.6m² GFA representing an FSR of **0.9:1**. This exceeds the standard by 841.45m² or **80.5%**. In relation to the component of the development located on the portion of the site having a maximum prescribed FSR of **0.6:1** (334.44m²) the development proposes 554.8m² GFA representing an FSR of **1:1**. This exceeds the standard by 220.36m² or **65.8%**.

A Clause 4.6 written request accompanies the Development Application, and it is not supported due to the large numerical variations being proposed. The proposed substantial non-compliances are unreasonable and unnecessary in this instance. The proposed bulk and scale of the proposal would not be compatible with the existing low density residential character of the immediate Longueville locality. It is considered that the proposed FSR would be far too excessive which would indicate that the existing facility is at its maximum bulk/scale which had been already appropriately established. The proposal would be contrary to the relevant LCLEP aims, zone and FSR objectives. The submitted Clause 4.6 fails the relevant tests involved.

The proposed built form would have significant adverse visual impacts onto adjoining and surrounding residential properties to the north and west of the subject site. There would be a significant adverse impact on the immediate property to the north due to the extent of the proposed works along the entire northern boundary towards the rear lane at the northwest corner of the site. This is primarily due to the substantial non-compliance with the required rear building setbacks under Lane Cove Development Control Plan (LCDCP) Part C – Residential Development Part 1.3.4 – Rear setbacks. The proposed rear setbacks are not supported as it would not be consistent with other rear setbacks in the locality and with the existing rear setback of the adjoining dwelling at No. 41 Kenneth Street.

It is considered that the proposed excavation to extend the minor portion of the existing lower-level ground floor area and the new works would create or introduce a new three-storey component to

the existing facility to the rear lane/northern boundary and to the adjoining dwellings. This component of the proposal would be contrary to the predominant single/two storey character of the locality and laneway. The proposal breaches Part 1.6(d) which restricts excavation to a maximum of **1m** and to Part 1.7.1(e) Height which restricts developments to a maximum of two storeys on relatively flat sites.

This impact is further exacerbated by the removal of existing rear trees and the existing garden setting of its rear yard. The above outcomes have contributed to the proposed variation to LDCP Part C Part 1.5 – Landscaped Area where the proposed landscaped area is below the **minimum 35%** area required where a total of approximately **20.16%** is proposed. The existing landscaped area is at approximately **26.43%**. This clear reduction in the amount of existing landscape areas occurs within the front Kenneth Street and rear yard areas to accommodate the new works. The proposed variation is not supported in this instance. Further, this reduction in landscaped areas would involve adverse impact on existing trees which establish the low-density character of the site and locality.

The subject Development Application proposes a substantial variation to the minimum required car parking under LCDCP Part R – Traffic, Transport and Parking and this is also not supported. The proposed upgrade to the hospital would require total of **26 car parking spaces** to be provided on the subject site with only **four (4) car parking spaces** including one accessible space being provided for on site. Three of the spaces would be allocated only to the practitioners and there would be no visitor spaces provided for with exception of the one disabled space. Any continued reliance upon on-street parking to accommodate such a large upgrade is not supported in this instance.

As detailed further in this report, the above proposed variations are not supported, and the applicant was requested to withdraw the subject application. The applicant had chosen not to withdraw, and the application is now required to be reported to the Sydney North Planning Panel (SNPP). The subject proposal is not supported as the proposed works would be contrary to the existing low-density residential character of the Longueville neighbourhood. It is considered that the appropriate built scale of the existing is already set and that any further substantial increase on the subject site would represent as an 'overdevelopment' or an 'over-intensification' of use.

The Development Application was notified, and a total of approximately 44 submissions were received under the public exhibition/notification period. The submissions primarily relate to that the site is not suitable to accommodate such an upgrade commercial in nature which would significantly contribute to traffic, parking, acoustic and residential amenity impacts. The submissions have been summarised and addressed within this report.

Insufficient information has been submitted with respect to waste management, stormwater, acoustic, health & environment, traffic/car parking, trees and landscaping matters.

The proposed development cannot be supported due to its substantial non-compliant nature and is reported to the SNPP with a recommendation for **refusal**.

STRATEGIC PLANNING CONTEXT

The subject development site is located within the Longueville locality which is predominantly an established low-density residential area containing mainly detached dwelling developments.

SUBJECT SITE AND SURROUNDS

The subject site is known as Nos. 43-47 Kenneth Street, Longueville (Lot 10 DP 1221098) with a total site area of 2,647m². The site has a frontage to Kenneth Avenue (to the southeast), Christina Street (to the southwest) and Lorna Leigh Lane (to the northwest). The site is zoned R2 Low Density Residential under Lane Cove Local Environmental Plan 2009. The site presently contains predominantly a single storey private hospital building, a part basement level and two administration or medical type buildings which were former dwelling houses. The site is adjoined or surrounded by detached dwellings and a place of worship building to the southwest. There is vehicular access from Christina Street adjacent to the lane at the rear.



Figure 1 – Aerial of the Subject Site

The consolidated allotment has primary frontage to Kenneth Street of 57.91m, secondary frontage to Christina Street of 45.720m and frontage to Lorna Leigh Lane of 57.91m. The property shares a common boundary with an adjacent two storey detached dwelling house No. 41 Kenneth Street to the north-east. A row of 90° car parking spaces is provided along the Christina Street frontage which is shared between the visitors of the hospital and parishioners of the Church with established canopy trees softening and screening the existing buildings as viewed from the street. The subject property has no formal off-street carparking and the existing ambulance bay is located on the Kenneth Street and accessed from the Kenneth Street frontage.

The property falls across its surface in a south westerly direction. The property contains trees as detailed within the accompanying arborist report lodged.



Figure 2 – View from Kenneth Street

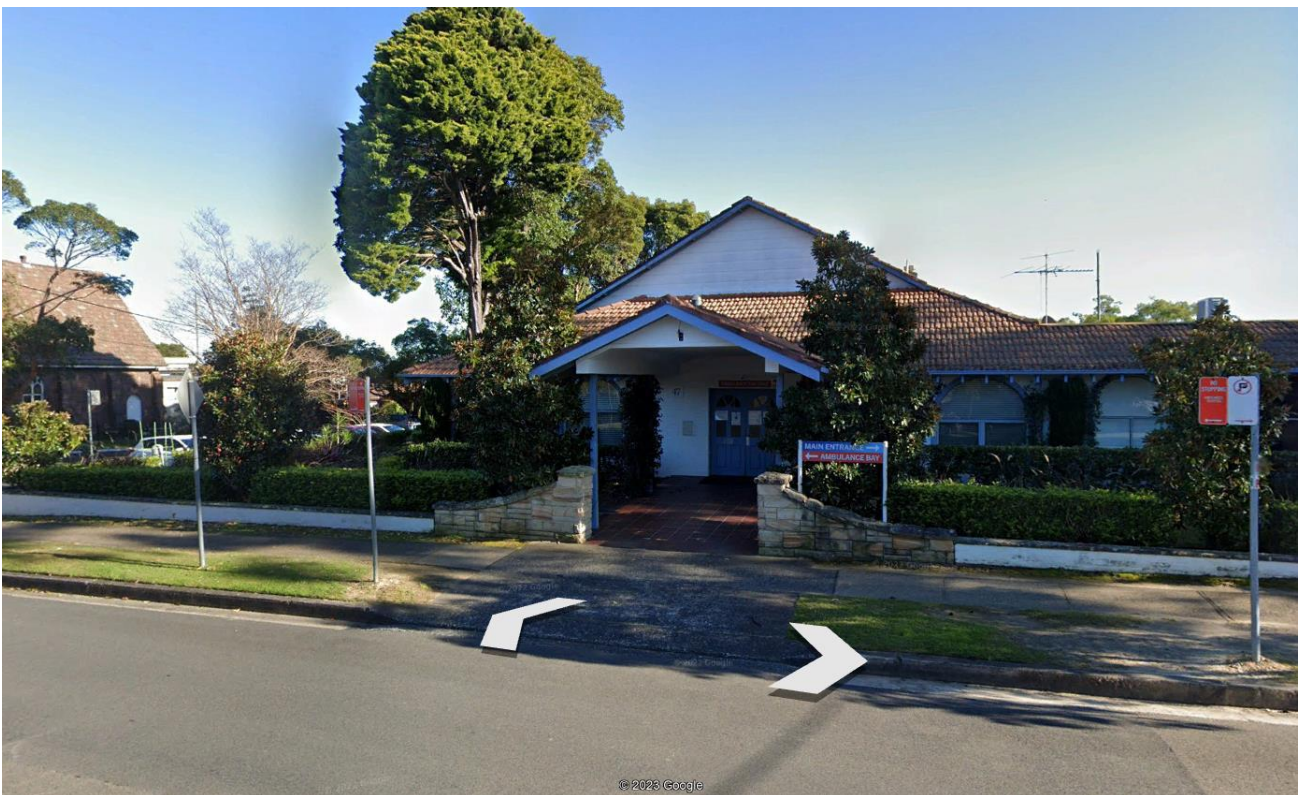


Figure 3 – Existing Ambulance Bay from Kenneth Street

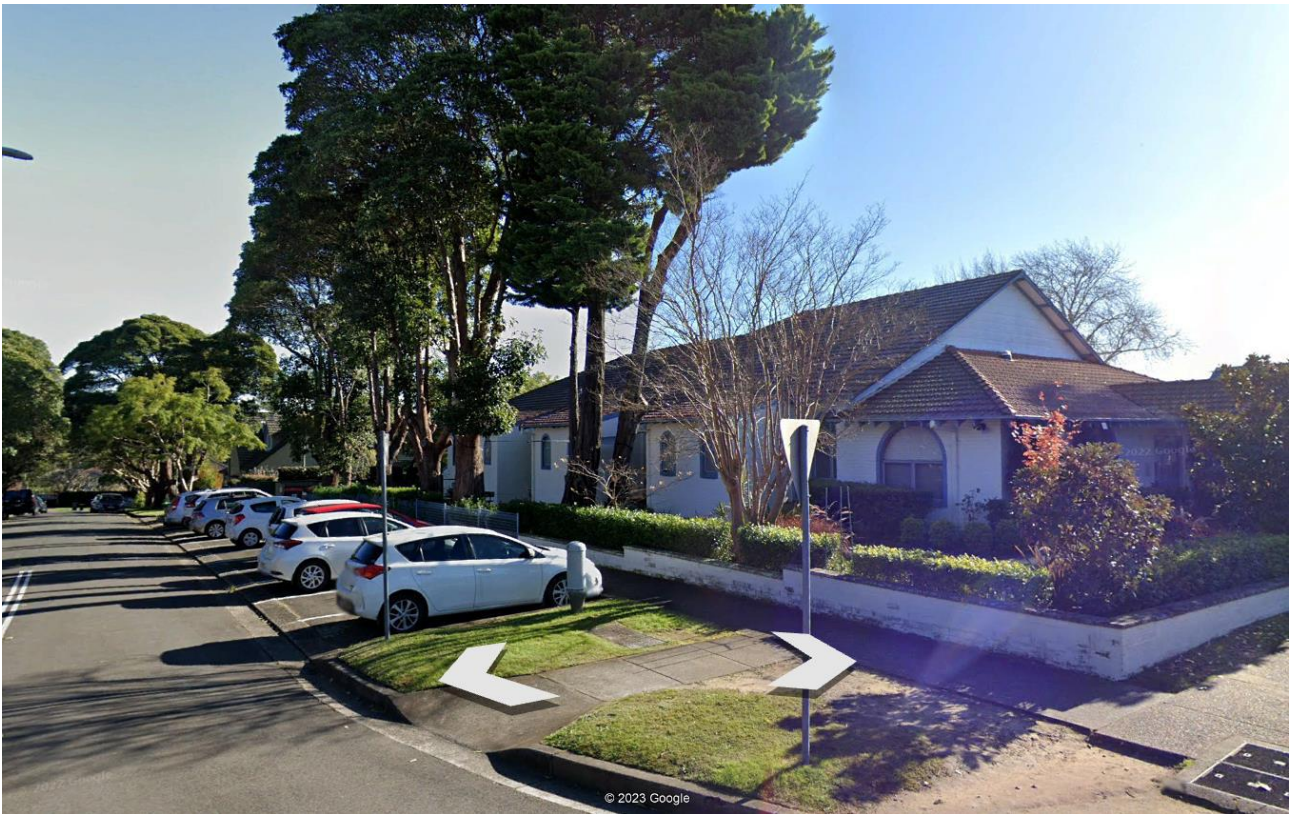


Figure 4 – View from Christina Street



Figure 5 – View from Lorna Leigh Lane Cove Council



Figure 6 – Adjoining two (2) Storey Dwelling House at No. 41 Kenneth Street



Figure 7 – St Andrews Uniting Church Directly Opposite the Subject Site on Christina Street

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PROPOSAL TIMELINE

The proposal timeline (to date and forecast) is provided in the table below as follows:

| Table 2 – Proposal Timeline | |
|------------------------------------|--|
| Date | Description |
| 26 June 2023 | Subject Development Application lodged. |
| 29 June 2023 | Public notification of Development Application commenced. |
| 15 July 2023 | Public notification of Development Application concluded (Approx. 44 submissions received). |
| 7 August 2023 | Meeting held with the applicant/owners to discuss the concerns Council had with the subject proposal. |
| 16 August 2023 | <p>A withdrawal and request for additional information letter sent to the applicant raising the following concerns with:</p> <ul style="list-style-type: none"> • FSR. • Built Form (setbacks). • Car Parking/Traffic. • Landscaped Areas. • Tree Impacts/Removal. • Engineering. • Waste Management. <p>The letter requested withdrawal of the proposed Development Application where the applicant was advised that based on the above matters and significant non-compliances with both LCLEP and LCDCP, the proposal represented as an overdevelopment and an over-intensification of use on the subject site which would adversely impact on the existing local low-density residential locality. The subject site would not be suitable to accommodate such a large upgrade to the existing private hospital usage.</p> <p>The cumulative impact of the proposal would be unreasonable, and the proposed development would not be in the public interest.</p> |
| 5 September 2023 | <p>A further request for additional health and environment information in relation to:</p> <ul style="list-style-type: none"> • A Construction Noise & Vibration Management Plan; • A Construction & Demolition Waste Management Plan; and • The noise impacts from the proposed hydrotherapy pool filter and pool pump. |
| 4 October 2023 | Briefing of the Sydney North Planning Panel (SNPP). |
| 4 October 2023 | 7-day notice sent to the applicant requesting withdrawal of the subject application or the application would be determined with a likely recommendation of a refusal to the SNPP (to date no formal response has been provided by the applicant). |
| 4 October 2023 | <p>Record of briefing issued by the SNPP. The key issues raised were as follows:</p> <ul style="list-style-type: none"> • Items listed in Council's Request for Additional Information. • Car parking and traffic. • Crime Prevention through Environmental Design principles. |

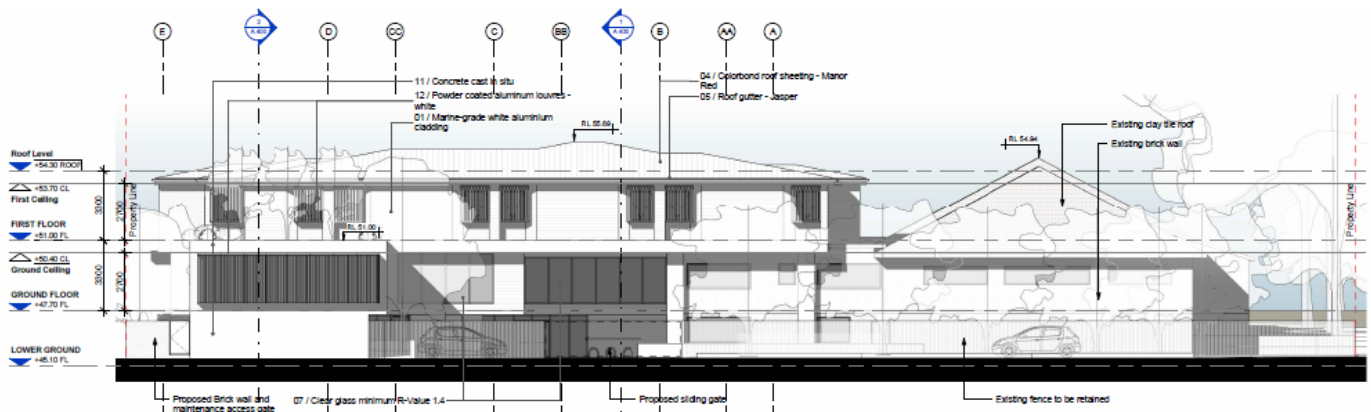


Figure 9 – Rear Lorna Leigh Lane West Elevation

The detailed description of the proposal is as follows:

Lower ground floor plan

The existing kitchen, laundry, storeroom and staff facilities are retained on this level. The application proposes the construction of a new ambulance and loading bay together with four (4) off-street carparking spaces accessed from the existing driveway. Additions are proposed at this level including a new lift lobby, staffroom and associated bathroom facilities, plant room, and cleaner's room with internal stair and lift access provided to the level above. The existing workshop located in north-western corner of the property is demolished to facilitate the provision of a new hydrotherapy pool above.

The existing access gate from Lorna Leigh Lane is replaced with a new sliding gate with construction in this area managed to facilitate the retention of Tree 2 as detailed within the accompanying arborist report prepared.

Ground Floor Plan

The existing administration building is demolished to accommodate alterations and additions to the existing hospital and outpatients building. The alterations and additions include the removal of the existing ambulance bay and its replacement with an outdoor seating area, the provision of a new reception and administration area accessed from a new accessible pathway from the Kenneth Street Frontage. An additional patient room is proposed adjacent to the reception area together with a new meeting/education room and lounge/dining room. The application proposes the expansion of the existing rehabilitation gymnasium located to the rear of the existing outpatients building and the provision of additional public and patient bathroom facilities.

A new hydrotherapy pool and associated patient change room is proposed adjacent to the Lorna Leigh Lane frontage. Internal stair and lift access are provided to the new level above.

First Floor Plan

This new floor plate incorporates 19 additional patient rooms each with ensuite, staff station, utility/cleaner/storage/medication rooms, public WC, staff WC and an external patio located to the south of the proposed additions. A green landscaped roof is located over the hydrotherapy pool below. The accompanying arborist report prepared confirms that the proposal requires the removal of two (2) trees being Tree 1 - London Plane Tree and Tree 3 – Kaffir Plum Tree both of which are exotics and supported for removal due to their incompatibility with the health services facility use established on the site.

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Such tree loss is appropriately compensated for through the implementation of the site landscape regime as depicted on the landscape plans prepared. These landscape plans incorporate deep soil landscaping adjacent to the rear yard of No. 41 Kenneth Street, on slab planting above the proposed hydrotherapy pool and additional tree plantings adjacent to the Kenneth Street frontage.









Figure 10: Proposed Landscape Plan

The acceptability of the proposed access and parking arrangement is detailed within the accompanying Transport and Parking Impact Assessment prepared with NCC and accessibility compliance detailed in the relevant report prepared.

All storm water will be gravity drained through an on-site stormwater detention system to the existing Council drainage infrastructure within Lorna Leigh Lane as detailed in the accompanying drainage concept proposal prepared.

Potential noise intrusion impacts have been addressed including with recommendations within the accompanying Acoustic Report prepared.

The proposed schedule of finishes are as follows:

| | | | | | |
|---|---|---|---|--|---|
|  |  |  |  |  |  |
| 1. Marine-grade white aluminium cladding : Ultrawood cladding in Alabama White | 2. Fibre-cement Coral: Swiss Pearl HVG Facade in colour Coral 7030 | 3. White anodised aluminium frames | 4. Colorbond roof sheeting-Lysaght Klip-Lok 700 Hi-Strength in colour Manor Red | 5. Roof Gutter-Colorbond in colour Jasper | 6. Fascia-Colorbond in colour Shale Grey |






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|  |  |  |  |  |
| 7. Clear glass minimum R-Value 1.4 | 8. Brick- Austral Brick: Hamptons in the colour/White haven | 9. Clay tile- Re-used from demolished roof | 11. Concrete cast in-situ | 12. Powder coated aluminium louvers-white |

Figure 11: Proposed Schedule of Finishes

Signage does not form part of the Development Application.

SECTION 4.15 ASSESSMENT

The following assessment is provided against the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979:

Section 4.15 Matters for Consideration

(a) The provisions of:

(i) Any environmental planning instrument

State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021

The provisions of the SEPP require potential contamination assessment of the subject Development Application. The Development Application is satisfactory having regard to the relevant matters for consideration under the SEPP where the subject site would be suitable for in principle for the continued use as a hospital purpose due to the nature of the works being involved (such as alterations and additions to an existing hospital that has been in operation for many years now with no known potentially contaminating activities being conducted on the site). The proposal would comply with the relevant provisions of the SEPP and no further investigations would be required in this instance.

State Environmental Planning Policy (SEPP) (Transport and Infrastructure) 2021

Health services facilities (hospitals) are permissible pursuant to Division 10 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Pursuant to Clause 2.60(1) development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone. The R2 Low Density Residential zone is a prescribed zone for the purpose of this clause however it is noted that there are development standards for such purposes if it requires development consent.

State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021

The subject site is within the Sydney Harbour Catchment generally but is significantly outside any foreshore or waterways area. Therefore, the relevant part of SEPP (Biodiversity and Conservation) 2021 is the planning principles for the Sydney Harbour Catchment. The principles have been reviewed and the proposal would satisfy the relevant matters. Specifically, the proposal would

provide for appropriate stormwater management to protect the catchment including pollutant control measures to be provided on the site.

State Environmental Planning Policy (SEPP) (Planning Systems) 2021

The Development Application is referred to the Sydney North Planning Panel for determination as the Capital Investment Value is \$7,977,003.00 (exceeding \$5 million for 'private infrastructure and community facilities' or 'health services facilities' type developments) satisfying the requirements of SEPP (Planning Systems) 2021.

Lane Cove Local Environmental Plan (LCLEP) 2009

Hospitals are permissible forms of development within the R2 Low Density Residential zone. The subject development site is zoned R2 as is majority of the Longueville suburb or locality.

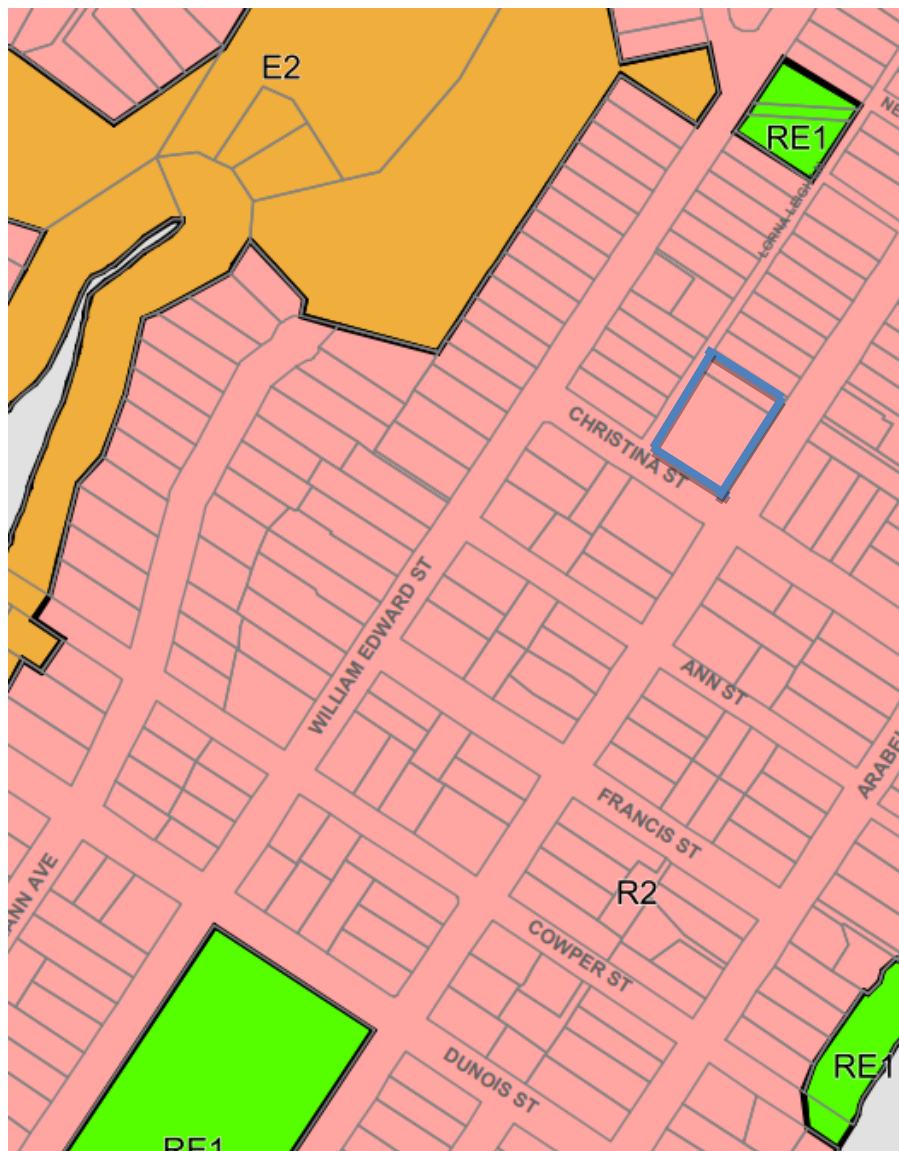


Figure 12: LCLEP 2009 Zoning Map of the Immediate Longueville Locality and the Subject Site (Outlined in Blue)

Zone Objectives


The following R2 zone objectives reads as follows:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.
- To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.
- To ensure that landscaping is maintained and enhanced as a major element in the residential environment.

To be discussed in further detail in this report, it is considered that the proposal would not satisfy zone objective dot points 3 and 5. The proposal is not consistent with the relevant objectives of the zone due to its overdeveloped nature. It is considered that the proposed upgrade to the facility would not operate in a manner that would have minimal impact on the existing residential character of the locality. The subject site would contain a large hospital usage commercial in nature without adequate on-site car parking which would be incompatible with the residential nature of the immediate locating representing as an over-intensification of use. It is considered that the appropriate built scale of the existing is already set.

Development Standards

The proposal has been assessed against the applicable development standards within LCLEP 2009 as detailed in the following table of compliance:



| Table 3 - Lane Cove LEP 2009 | Proposal | Compliance |
|---|---|------------|
| 4.3 Height | | |
| <p>Maximum 9.5m</p>  <p>Figure 13: LCLEP 2009 Height Map – J = Maximum 9.5m</p> | <p>The proposed works would have a maximum building height of 9.4m as depicted on the accompanying architectural plans and the height blanket diagrams.</p> | <p>Yes</p> |

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| Table 3 - Lane Cove LEP 2009 | Proposal | Compliance |
|---|--|---------------------------------|
| 4.4 FSR | | |
| Maximum 0.5:1 – No. 47 Kenneth Street Site Area: 2,090.3m ² Maximum FSR permitted = 1,045.15m ² | <u>Existing:</u> 0.52:1 or 1,096.6m ² <u>Proposed:</u> 0.90:1 or 1,886.6m ² (80.5% variation) | No, see discussion below |
| Maximum 0.6:1 – No. 43 Kenneth Street Site Area: 557.4m ² Maximum FSR permitted = 334.44m ² | <u>Existing:</u> 0.29:1 or 159m ² <u>Proposed:</u> 1:1 or 554.8m ² (65.8% variation) | |

Other Provisions

| Table 4 - LEP | Proposed |
|--|---|
| 2.7 Demolition Requires Consent | The development is seeking Council consent to remove partially of identified existing structures to accommodate the proposed upgrade the existing hospital development. |
| 5.6 Architectural Roof Features | The application does not propose or include any architectural roof features that exceed the maximum building height. |
| 5.10 Heritage Conservation | <p>The application is not a heritage item and is not within a heritage conservation area however it is in within the vicinity of a heritage item identified under Schedule 5 of LCLEP 2009. Council's heritage consultant has assessed the proposal and made the following comments:</p> <p>Proposal <i>The proposal is for major alterations and extensions to the existing Longueville Private Hospital. The work includes:</i></p> <p><i>Demolition of the central single storey admin wing and construction of a new two storey wing comprising an ambulance bay, staff room and lobby to a new basement level; administration, reception, meeting rooms and hydrotherapy pool to the ground floor; and additional patient accommodation to the first floor.</i></p> <p><i>The new work extends between Kenneth Street and Lorna Leigh Lane at the rear.</i></p> <p>Heritage Items <i>The Statement of Environmental Effects in the Assessment of DCP provisions states that there are no heritage items in the vicinity. (General Controls, B9).</i></p> <p><i>This is in fact not the case as listed item, St Andrews Uniting Church is located opposite the hospital at the corner of Kenneth Street and Christina Street.</i></p> |

| | |
|-------------------------------|---|
| | <p><i>As the new extension and the Church are visually separated by the existing hospital building, I will not be requesting a Heritage Impact Statement.</i></p> <p><i>Impact of the proposed new building</i> <i>It is acknowledged that the new work includes a large scale two storey structure replacing the single storey central wing, however the existing complex of remaining buildings on the hospital site are extensive and large in terms of scale.</i></p> <p><i>Any potential impacts arising from the proposed development are obscured by the location of the hospital building at the corner of Kenneth Street and Christina Street and the considerable distance between the heritage item and the subject site.</i></p> <p><i>I refer to my assessment of the pre-DA submission, on 22 April 2022 which still generally applies to the current DA submission, as follows:</i></p> <p><i>The church is located at some distance from the hospital, with Christina Street, parking spaces, and mature street trees separating the two sites.</i></p> <p><i>The proposed new work is located on the opposite side of the existing main hospital building to the church. Therefore, there will be minimal visibility between the new work and St Andrews Uniting Church.</i></p> <p><i>The alterations and additions are sympathetic with the existing hospital building in terms of bulk and scale and architectural design.</i></p> <div style="display: flex; justify-content: space-around;">   </div> <p style="text-align: center;"><i>Figures 14 & 15 – St Andrews Uniting Church, View East Along Christina Street, Hospital at the Left and St Andrews Church on the Right</i></p> <p><i>Recommendations</i> <i>I have no objection to the proposed development.</i></p> |
| <p>6.1A Earthworks</p> | <p>This application seeks consent for the excavation of the site as per the attached section plans. It is considered that the proposed excavation would have minimal adverse environmental impact however to be discussed further in this report, it is considered that the extent of excavation is not supported as it would be inconsistent with the low-density residential character of the Longueville locality</p> |

Floor Space Ratio (FSR) Development Standard

The proposed development is not compliant with the relevant numerical **0.5:1** and **0.6:1** FSR Development Standards of Lane Cove LEP 2009 affecting the subject site by a maximum of **80.5%**.

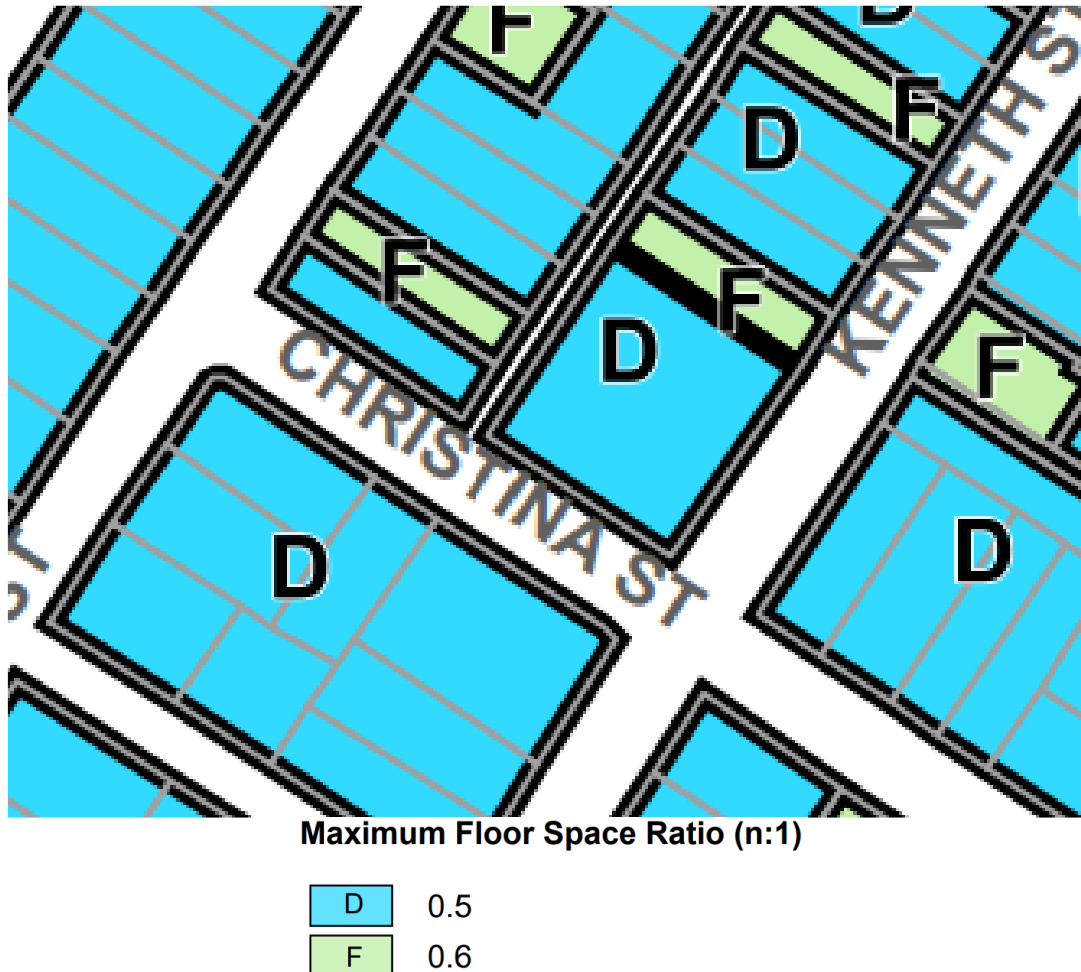


Figure 16 – FSR Map Indicating a FSR Ratio Split on the Subject Site (on the Corner of Kenneth St and Christina St)

Accordingly, in relation to the component of the development located on the portion of the site on No. 47 Kenneth Street (Site Area: 2090.3m²) having a maximum prescribed FSR of 0.5:1 (1045.15m²), the development proposes 1886.6m² GFA representing an FSR of 0.9:1. This exceeds the standard by 841.45m² or 80.5%. In relation to the component of the development located on the portion of the site on No. 43 Kenneth Street (Site Area: 557.4m²) having a maximum prescribed FSR of 0.6:1 (334.44m²), the development proposes 554.8m² GFA representing an FSR of 1:1. This exceeds the standard by 220.36m² or 65.8%.

It is noted that the existing hospital has a GFA of 1096.6 m² (Site Area: 2090.3m²) representing an FSR of 0.52:1 (an existing 4% technical variation) on No. 47 Kenneth Street. The existing hospital has a GFA of 159m² (Site Area: 557.4m²) representing an FSR of 0.29:1 (which is currently at a compliant level) on No. 47 Kenneth Street. The above calculations would equate to that the scope of works would be from a total of 1,225.6m² of existing floor space to a maximum of 2,441.4m² of floor space being proposed on the subject development site. This would represent in a total

increase by 1,215.8m² or a 94% increase in floor space on the site being nearly double the amount when compared to the existing situation.

Clause 4.6 Written Request – FSR

Clause 4.6 Exceptions to development standards

Clause 4.6 of LCLEP 2009 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered and agrees with the written request from the applicant that seeks to justify the contravention of the development standard. This written request must demonstrate compliance with the relevant provisions of Clause 4.6 of LCLEP 2009. These matters are discussed below:

Written request provided by the applicant:

The applicant has provided a written request seeking a variation to the development standard with the lodged application. A copy of the full request is provided to the Panel for their review and consideration. Under Clause 4.6(3) the applicant is required to demonstrate:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

1. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

The Clause 4.6 variation has argued that it is unreasonable or unnecessary to require strict compliance with the development standard for the following reasons summarised below:

The subject property is not located within area identified at Part C of Lane Cove Development Control Plan (LCDCP) as being within a special residential area/locality for which there is an identified character statement. The consideration of building compatibility is dealt with in the Planning Principle established by the Land and Environment Court of New South Wales in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191. The key objective of SEPP (Transport and Infrastructure) 2021 is to provide greater flexibility in the location of infrastructure and service facilities.

Accordingly, there can be no realistic expectation that a hospital will display a similar bulk and scale to that of a dwelling house with form ultimately responsive to function. In this regard, I note that clause 107 of State Environmental Planning Policy (Housing) 2021 outlines the non-discretionary development standards applicable to residential care facilities within low density residential zones. Clause 107(2)(c) prescribes a maximum density and scale of residential care facilities when expressed as a floor space ratio of 1:1 which if complied with prevents the consent authority from requiring a more onerous standard.

That is, a residential care facility having a maximum FSR of 1:1 is deemed to be acceptable in relation to density and scale and capable of being compatible with the character of the locality in which it is located subject to final design detailing. As previously indicated, the proposal has an FSR of between 0.9:1 and 1:1 being entirely consistent with the maximum prescribed FSR standard for residential care facilities within low density residential zones pursuant to State Environmental Planning Policy (Housing) 2021.

The question is whether the non-compliant FSR contributes to the bulk and scale of the development to the extent that the resultant building form will be incompatible with the bulk and scale of surrounding and nearby development. In this regard, I note that the proposed building complies with the prescribed building height standard with pitched roof forms, reflecting the pitched roof forms established by detached style housing within the locality, incorporated into the alterations and additions proposed.

The adjoining property to the north-east 41 Kenneth Street is occupied by a 2 storey detached dwelling house as depicted to the far right of the attached plan extract. St Andrews Uniting Church is located directly opposite the subject site on Christina Street the built form characteristics of which are depicted in Figure 3. The balance of surrounding development is characterised by 1 and 2 storey detached dwelling houses with other development in the locality including St Aidan's Anglican Church located further to the south-east of the site along Christina Street as depicted in Figure 4.

In this regard, I have formed the considered opinion that the distribution of floor space across the site in a highly articulated and modulated fashion together with the adoption of pitched roof forms will ensure that the non-compliant FSR will not contribute to the bulk and scale of the development to the extent that the resultant building form will be incompatible with the bulk and scale of development within the locality. In this regard, it can be reasonably be concluded that, notwithstanding the FSR non-compliance, the development is capable of existing together in harmony with surrounding and nearby development and development generally in the locality.

Notwithstanding the FSR non-compliance, the resultant development is compatible with the bulk and scale of surrounding and nearby development and development generally within the locality, with the quantum of floor space proposed consistent with the floor space anticipated for residential care facilities within low density residential zones pursuant to SEPP (Housing) 2021. Given the developments consistency with the objectives of the FSR standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

Comment:

The proposed substantial non-compliance is unreasonable and unnecessary in this instance. The submitted Clause 4.6 written submission is not supported. The proposed bulk and scale of the proposal would not be compatible with the existing low density residential character of the immediate Longueville locality. It is considered that the proposed FSR would be far too excessive which would indicate that the existing facility is at its maximum bulk/scale which had been already appropriately established. The proposed large variation is not supported by Council due to the excessive bulk/scale proposed on a site located within a low-density residential locality.

Compliance with the development standard would be reasonable and necessary in the circumstances of the subject proposal. The written request has not demonstrated that the breach to FSR would be consistent with the LEP FSR objective to ensure that the bulk and scale of development is compatible with the character of the locality. The comparison made to a residential aged care facility is noted however the proposed use is not subject to the development standards under SEPP Housing 2021 and if it were, the proposal would not comply with its side/rear boundaries height plane requirements for any three-storey components. Regardless, the subject proposal is still subject to the FSR development standards of the current LEP instead.

Council is not contending that for compatibility matters to be addressed that the proposal would need to provide for a 'like for like' development to surrounding residential developments however rather that the proposal would not retain or improve the current low density residential character of the immediate locality. The proposed variation would result in additional adverse visual impacts and unnecessary bulk or scale to surrounding developments and compliance would be reasonable

in this instance. The development as amended would not present as an appropriate built form outcome for the Longueville residential neighbourhood as the proposed variation would have additional adverse impacts onto the immediate locality.

The written request does not demonstrate that the breach to FSR would be consistent with the LEP FSR objective to ensure that the bulk and scale of development would be compatible with the character of the locality. Given the additional impacts on neighbouring properties, compliance with the FSR development standard would be reasonable or necessary in this case. Approval of a 80.5% variation would not be appropriate in this instance and the written request is not supported. The request for variation does not indicate how the breach in the FSR control would achieve better outcomes for residences surrounding it.

The proposed development as amended does not appropriately identify the intended character of the locality by not providing for a satisfactory built outcome and not providing for improved amenity levels for the residents of the locality. Clause 4.6(3)(a) is not satisfied in this instance.

2. Environmental planning grounds to justifying contravening the development standard.

The applicant has provided justifications same as the above under the unreasonable/unnecessary sub-heading however it included the following additional justifications as follows:

I have formed the opinion that sufficient environmental planning grounds exist to justify the variation including the compatibility of the bulk and scale of the development, as reflected by floor space, with the built form characteristics established by development within the locality. In forming this opinion, I note that the size and geometry of the site facilitates the distribution of floor space in a highly articulated and modulated manner with characteristically pitched roof forms adopted to reflect the predominant roof form in the locality.

Strict compliance with the FSR standard would fail to facilitate a general upgrade the existing hospital having regard to the Building Code of Australia, the Ministry of Health design and construction requirements and the provisions of the Private Health Facilities Act 2007, the Private Health Facilities Regulations 2017 and the Australasian Health Facility Guidelines. It would also prevent the provision of additional private patient beds for which there is a clear demand for within the Lane Cove area.

Approval of the FSR variation will achieve the objects in Section 1.3 of the EPA Act, specifically:

- The proposal promotes the orderly and economic use and development of land consistent with its long-established health services facility (hospital) use (1.3(c)).*
- The development represents good design (1.3(g)).*
- The building as designed facilitates its proper construction and will ensure the protection of the health and safety of its future occupants (1.3(h)).*

There are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The large substantial variation to FSR in part is due to the proposed excavated areas below natural ground level to create additional floorspace and as such would produce additional adverse visual, bulk and scale impacts. An undesirable creation of a three-storey development with minimal side/rear setbacks would occur towards the rear lane and to the adjoining development at No. 41 Kenneth Street. The proposed alterations and additions would clearly provide a beneficial use to the hospital operation however it would be at the expense of surrounding residences.

It is considered that the proposal would produce unnecessary additional visual, bulk and scale impacts onto the existing residential locality. The additional bulk and scale created would provide for additional beds for the hospital however it would not maintain or reduce any of the potential off-site impacts. The proposal would not offer any better amenity levels on surrounding buildings. The proposed large variation is not supported on the basis and given the adverse impacts on surrounding properties, compliance with the FSR development standard would seem reasonable in this instance. The environmental planning grounds to justify contravening the development standard are not supported or justified in this case.

Given the additional impacts on neighbouring properties, in terms of visual impacts for instance, the subject proposal is not supported. The environmental planning grounds provided for in this instance are not satisfactory to support such a large substantial FSR control variation of the LEP. It would be more prudent from an environmental planning ground to uphold the integrity of the control in this locality. The environmental planning grounds provided as required by Clause 4.6(3)(b) are not satisfied in this instance as the proposed breach to the FSR development standard by such a large amount should not be supported and any approval of the subject application would result in a development which would be inconsistent with other developments within Longueville.

3. Consistent with the zone objectives and objectives of the development standard.

Development consent cannot be granted to vary a development standard unless a consent authority is satisfied that the proposed development would be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out. The applicant has stated that the proposal achieves the relevant objective of the FSR development standard by the same reasons provided above under the unreasonable/unnecessary sub-heading however it included the following additional justifications as follows:

As demonstrated in this request, the proposed development it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. Accordingly, the consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

FSR Objective Comment:

Clause 4.4(1) provides the following objective:

- (a) *to ensure that the bulk and scale of development is compatible with the character of the locality.*

Comment: The additional floor space created would contribute to the unnecessary bulk and scale to the overall hospital building. The proposed upgrade in turn would adversely affect the existing residential character of the locality where a good built outcome had not been provided for. It is considered that the proposed FSR would be far too excessive which would indicate that the existing facility is at its maximum bulk/scale which had been already appropriately established. There would be a significant adverse impact on the immediate property to the north due to the extent of the proposed works along the entire northern boundary towards the rear lane at the northwest corner of the site.

It is considered that the proposed excavation to extend the minor portion of the existing lower-level ground floor area and the new works would create or introduce a new three-

storey component to the existing facility to the rear lane/northern boundary and to the adjoining dwellings. This component of the proposal would be contrary to the predominant single and two storey character of the locality and laneway. This impact is further exacerbated by the removal of existing rear trees and the existing garden setting of its rear and front yards.

In accordance with the above, the development does not comply with the LCLEP 2009 objective for the FSR control and is not supported.

The applicant has provided the following justifications as to why the proposed development is consistent with the R2 Low Density Residential zone objectives as follows:

- *To provide for the housing needs of the community within a low-density residential environment.*

Response: As the application relates to alterations and additions to an existing lawful hospital this objective is not applicable.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Response: The proposed alterations and additions facilitate a general upgrade the existing hospital having regard to the Building Code of Australia, the Ministry of Health design and construction requirements and the provisions of the Private Health Facilities Act 2007, the Private Health Facilities Regulations 2017 and the Australasian Health Facility Guidelines. The increase in bed numbers will meet a clear demand for private patient beds within the Lane Cove area. Accordingly, the proposal achieves this objective notwithstanding the FSR non-compliance proposed.

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

Response: As the application relates to alterations and additions to an existing lawful hospital this objective is not applicable.

- *To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.*

Response: As the application relates to alterations and additions to an existing lawful hospital this objective is not applicable.

- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

Response: The arborist report prepared by Growing My Way Tree Consultants confirms that the proposal requires the removal of two (2) trees being Tree 1 - London Plane Tree and Tree 3 – Kaffir Plum Tree both of which are exotics and supported for removal due to their incompatibility with the health services facility use established on the site. Such tree loss is appropriately compensated for through the implementation of the site landscape regime as depicted on the landscape plans prepared by Vision Dynamics. These landscape plans incorporate deep soil landscaping adjacent to the rear yard of 41 Kenneth Street, on slab planting above the proposed hydrotherapy pool and additional tree plantings adjacent to the Kenneth Street frontage. The proposal provides for the maintenance of landscaping is a major element in the residential environment.

Accordingly, the proposal achieves this objective notwithstanding the FSR non-compliance proposed.

Comment:

R2 Low Density Residential Zone Objectives

The R2 Low Density Residential zone objectives are as follows:

- *To provide for the housing needs of the community within a low-density residential environment.*

Comment: N/A.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The proposal is for alterations and additions to an existing private hospital which provides a health service to the local community.

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

Comment: It is considered that the additional unnecessary bulk and scale created from the proposed development would not maintain or improve existing residential amenity levels of existing residents of the Longueville locality. Along with the increased bulk/scale matters described, the proposed upgrade would increase the intensification of use of the hospital operation which would increase adverse off-site impacts onto the locality. The proposed upgrade to the hospital only has four (4) car parking spaces being provided for on site for a 48-bed facility. Three of the spaces would be allocated only to the practitioners only and there would be no visitor spaces provided for with exception of the one disabled space.

Any continued reliance upon on-street parking to accommodate such a large upgrade is not supported in this instance.

- *To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.*

Comment: N/A

- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

Comment: The proposed landscaping would not provide for a satisfactory landscaping and tree canopy outcome when viewed from the public domain areas and along other relevant boundaries. The proposed landscaping would not represent as a substantial improvement to the existing garden setting of the subject site and overall appearance of the development.

In accordance with the above, the development does not comply with the relevant LEP 2009 objectives for the R2 Low Density Residential zone.

4. Concurrence of the Director General.

The Sydney North Planning Panel (SNPP) can assume concurrence for exceptions to development standards. The FSR variation is more than 10% (by a maximum of 80.5%). As the proposal is referred to the SNPP for determination; concurrence is taken to be assumed should the Panel be satisfied that notwithstanding the above impacts and non-compliances the proposal is acceptable. However, it is strongly recommended that the panel refuses the subject application in accordance with the reasons for refusal recommended within this report. The proposal is referred to the SNPP for determination.

5. Conclusion

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards by allowing flexibility in particular circumstances. The variation to the FSR standard of LCLEP 2009 is not justified and not supported in the circumstances of this case. The development would not satisfy the objective of the control. The development does not satisfy the objectives and the criteria outlined in Clause 4.6. As such, the variation is not well founded, does not result in a better planning outcome and would not be in the public interest.

Aims of the LEP

Based on the above discussions, the proposal would contravene the following LEP aims as follows:

- *to establish, as the first land use priority, Lane Cove's sustainability in environmental, social and economic terms, based on ecologically sustainable development, inter-generational equity, the application of the precautionary principle and the relationship of each property in Lane Cove with its locality.*
- *to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community.*

Further to the above discussions on the inadequate built form of the proposal, the proposed upgrades would not comply with minimum DCP requirements such as rear building setbacks, number of storey, landscaping, cut and car parking matters. It is considered that there will be increased activities on the site with increased vehicle and people movements over the duration of the day causing an adverse visual impact. The development represents as an overdevelopment and an over-intensification of use due to the size of the proposed upgraded facility being located right in the middle of an established residential area. It is recommended that the Development Application be refused on this basis.

(ii) Any proposed instrument (Draft LEP, Planning Proposal)

N/A

(iii) Any development control plan

Lane Cove Development Control Plan (DCP)

The proposal has been assessed against the provisions of the Lane Cove DCP and the proposed development achieves compliance with the relevant requirements with exception of the following:

- Building setbacks
- Cut
- Numbers of storeys
- Landscaping
- Car parking
- Maximum Number of Beds Permitted

The proposed non-compliances with the above DCP requirements which is in part due to the above large variation being proposed to FSR are not supported on this basis from a built form perspective. It is noted that whilst these controls are mainly for dwellings however, they would appropriately guide developments within a low-density residential locality to ensure local amenity is maintained or protected. It is also noted that there are no specific controls for hospitals in place.

Setbacks

Lane Cove DCP (LCDCP) Part C – Residential Development Part 1.3.4(a) Rear Setbacks requires:

A minimum rear setback for dwelling houses of 10m or 35% of the site depth (whichever is greater) is to be provided for sites more than 1000m² (refer to Diagram 2). The existing predominant rear setback and site constraints, especially for irregular sites, may be taken into account.

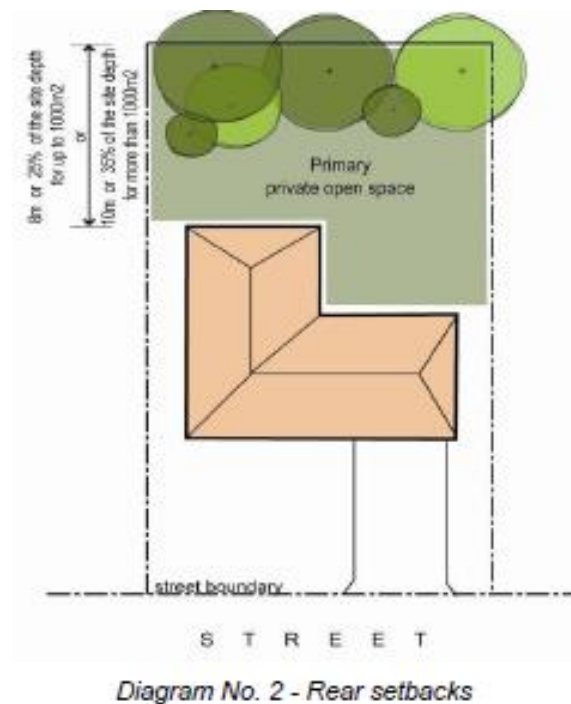


Figure 17 – DCP Rear Setback Requirement to Ensure a Rear Garden Setting is Established

The subject site has an area of 2,647m² and has a maximum width of 47.720m. The minimum rear setback required on the subject site would be 16.7m. A nil setback for the hydrotherapy pool and a minimum 5.35m setback for the new upper level are proposed.

Further, Part 1.3.1(a) Front Setbacks requires:

The front setback of the building shall be consistent with the prevailing setback along the street (refer Diagram No.1). Where there is no predominant setback within the street, the setback should be a minimum of 7.5m. Irregular sites may be considered on their merits.

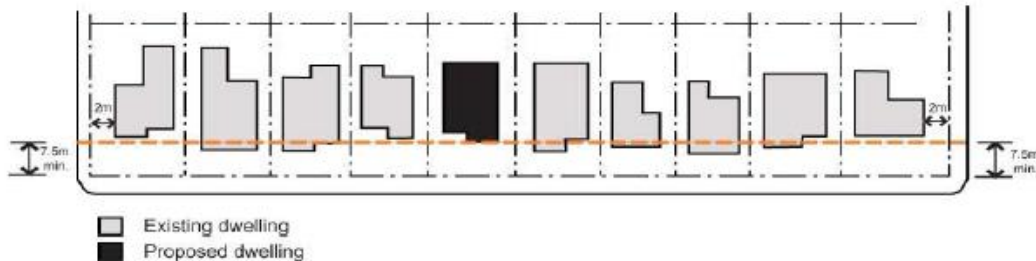


Diagram No. 1 – Predominant street setback

Figure 18 – DCP Front Setback Requirement

A minimum front setback of 6m is proposed to Kenneth Street where a minimum setback of 7.5 is required.

The relevant objectives of Part 1.3 Setbacks are as follows:

- 1 Maintain the predominant street setback.*
- 2 To enhance and maintain vegetation corridors through landscaping within front and rear gardens and side boundaries.*
- 3 Side and rear setbacks are to provide building separation, sunlight, landscaping, ventilation, public views (if appropriate) for the dwelling and its neighbours.*

The applicant provided the following justifications as follows:

The proposed works maintain the established setbacks to both the Kenneth Street and Christina Street frontages. The proposed additions also maintain the setbacks established by the existing development on the site from the Lorna Leigh Lane frontage with the proposed hydrotherapy pool located in the area currently occupied by the existing garage structure. In this regard, the development maintains the predominant street setbacks in accordance with these provisions.

The proposed additions maintain a variable setback to the only side boundary of the allotment of between 1.535 and 3 metres. The setbacks are consistent with the setbacks applicable to 2 storey dwelling house development on the subject property. The setbacks provide for a deep soil landscape zone to enable the establishment of screen landscaping adjacent to this boundary interface as nominated on the accompanying landscape plans. Given the orientation of the allotment relative to the adjoining residential property the proposed works will not give rise to unacceptable shadowing impacts nor will it impact public or private views.

In this regard, the proposed setbacks satisfy the objectives associated with the control.

Comment:

It is noted that the applicant has not addressed the relevant rear setbacks controls. The proposed built form due to the reduced building setbacks would have significant adverse visual impacts onto

adjoining and surrounding residential properties to the north and west of the subject site. There would be a significant adverse impact on the immediate property to the north due to the extent of the proposed works along the entire northern boundary towards the rear lane at the northwest corner of the site. This is primarily due to the substantial non-compliance with the required rear building setbacks under LCDCP.

The proposed rear setbacks are not supported as it would not be consistent with other rear setbacks in the locality and with the existing rear setback of the adjoining dwelling at No. 41 Kenneth Street. To be discussed in further detail in this report, the proposed front and rear setbacks are not supported on the basis that it would greatly reduce the existing garden setting of the hospital facility. The reduced setbacks would also adversely impact upon existing trees which assists in providing for that much valued garden setting character and their removal are not supported in this instance. The proposal results in quite a substantial upgrade on the subject site which is commercial in nature.

The development results in an unsatisfactory transition between residential developments within the locality as it is not appropriately located given its scale and intended use. The proposal has not been designed having regard to the existing built environment and would unacceptably impact on surrounding land uses within this zone.

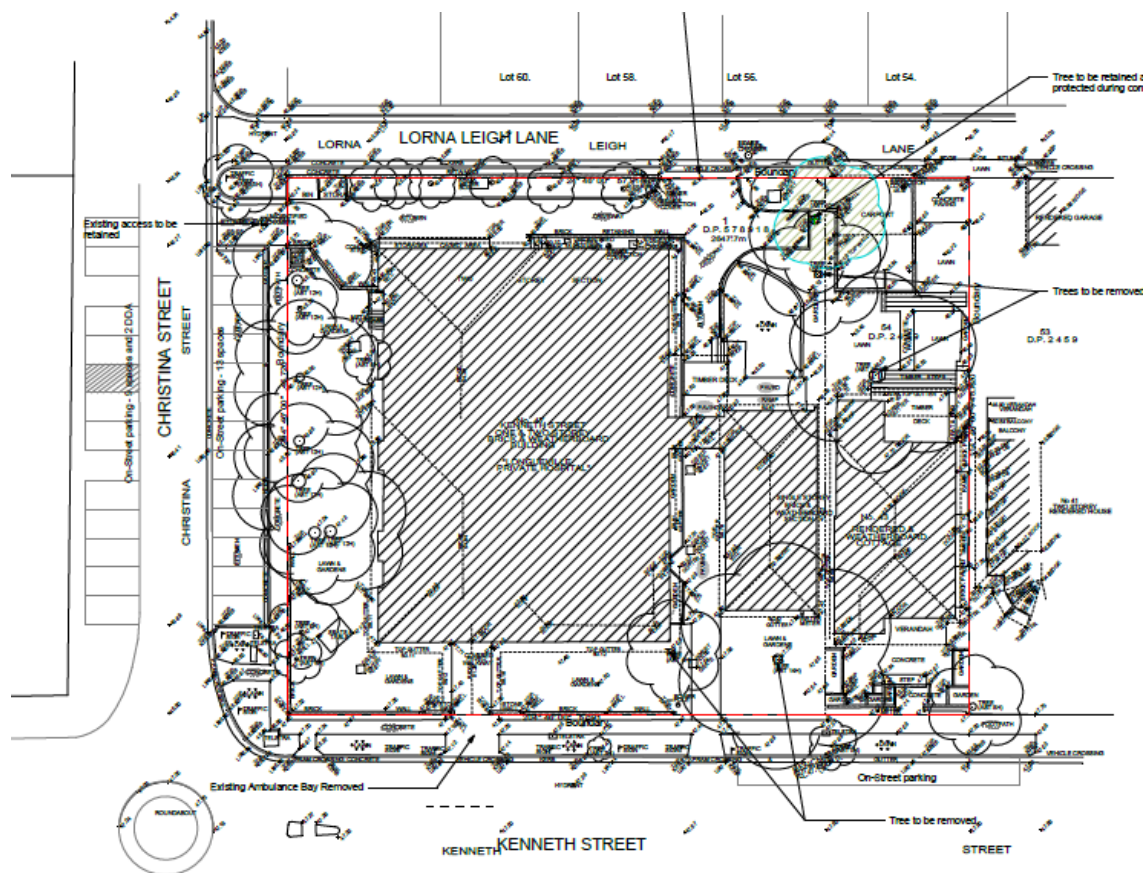


Figure 19 – Existing Predominant Single Storey Scale of the Hospital Facility

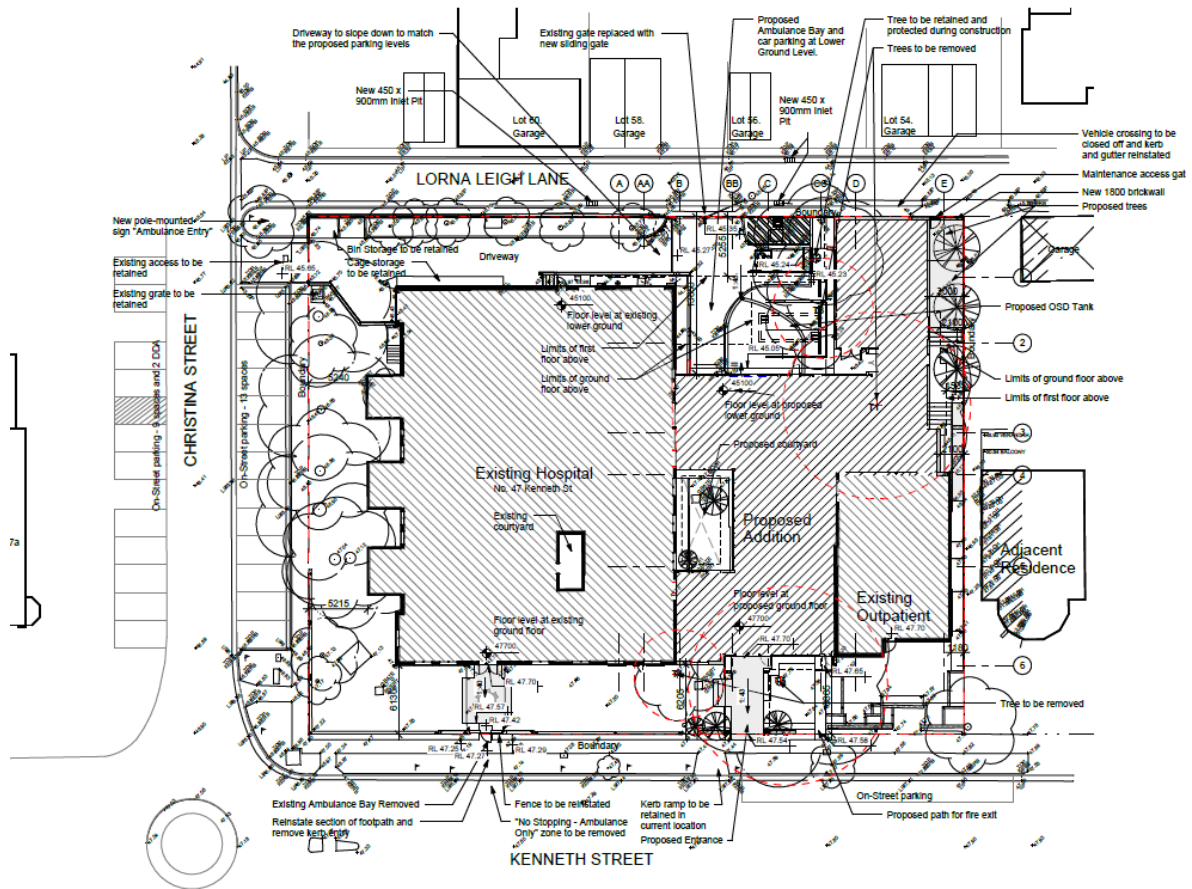


Figure 20 – Proposed Increase in Scale of the Hospital Facility with Reduced Building Setbacks and Landscaped/Garden Setting

Cut

LCDP Part C Part 1.6(a), (b), (d), (e) and (f) Cut and Fill requires:

All dwellings are to relate to the existing topography of the land at the time of the adoption of this DCP.

The area of the site contained within the building footprint can be excavated or filled only where it is necessary to reasonably construct a dwelling on steeply sloping sites.

Development is limited to a maximum depth of excavation or fill of 1m at any point on the site unless it is demonstrated that the site's slope is too steep to reasonably construct a 2 storey dwelling with this extent of excavation.

In such circumstances, Council may consider increasing the depth of excavation between the underside of the lowest floor to any point on the site where:

- I. large exposed undercroft areas are not created*
- II. the excavation does not create adverse impacts on the stability or amenity of adjoining properties or the public domain.*

Excavation or fill is not to result in the loss of any significant mature trees within the side, front or rear boundary setbacks.

The maximum amount of cut would be at a height of approximately 2.6m and would result in the contravention of the other abovementioned controls.



Figure 21 – Proposed Excavation to Extend the Lower Ground Level and to Create a Newly Introduced Three Storey Component (New Works in White/Existing Facility Shaded in Grey)

The relevant objectives of Part 1.6 are as follows:

- 1 Retain the natural ground levels as much as possible of a site and its existing landforms particularly in relation to the street or adjacent private open space areas.
- 2 To achieve reasonable landscaping within development.
- 3 To minimise the extent of cut and fill and its impact along side boundaries.
- 4 To create a consistent relationship between the dwelling and the street.
- 5 To ensure that excavation and filling of a site does not result in unreasonable amenity impacts to adjoining dwellings.
- 6 To minimise change to water run-off patterns.

The applicant provided the following justifications as follows:

The proposal has been designed to minimise excavation and retain natural ground levels adjacent to the property boundaries. As previously indicated, the application is a company by a landscape plan which provides appropriately for site landscaping capable of softening and screen the development and providing appropriate landscape treatments to the side boundary interface with the adjoining residential dwelling.

Comment:

The intent of this part of the DCP is to balance cut and fill works. It is considered that the proposed excavation to extend the existing minor portion of the existing lower-level ground floor area into a whole new floor would create or introduce a new three-storey component to the existing facility to the rear lane/northern boundary and to the adjoining dwellings (see Figure 9 above). This component of the proposal would be contrary to the predominant single/two storey character of the locality and laneway. The variation to the maximum 1m cut control is not supported as the proposed works involved would affect the visual appearance of the subject site when viewed from the rear of the site and from the adjoining property to the north at No. 41 Kenneth Street.

Building Design - Number of Storeys

LCDP Part C Part 1.7.1(e) Height requires:

A maximum of 2 storeys is permissible at any point above ground level (existing). No building will be permitted to have an appearance (in elevation) exceeding three storeys in height.

The intent of this control is to restrict development to a maximum of two storeys on relatively flat low density residential sites. The proposed upgrade to the existing hospital would result from an existing 'low-key' part one and part two storey facility into a part two and part three development. The three-storey component of the development would be concentrated towards the rear portions on the subject site.

The relevant objectives of Part 1.7 Building Design are as follows:

- 1 Ensure new dwellings and alterations and additions to existing dwellings reinforce the typical bulk and scale of existing dwellings within the street and the area.*
- 2 Ensure that alterations and additions to existing dwellings maintain the integrity of the design and style of the existing building.*
- 3 Ensure elevations to the street and public domain are well proportioned and designed.*
- 4 Minimise impact in terms of overshadowing, loss of privacy, light spillage to adjoining properties, loss of views and amenity.*

The applicant provided the following justifications as follows:

The development maintains a predominantly 1 and 2 storey built form presentation to the public domain with the proposed 3 storey element a consequence of the topographical characteristics of the site.

There can be no reasonable expectation that a permissible health services facility (hospital) will take the appearance of a single detached dwelling house nor comply with the applicable built form controls. Such controls must be applied with a degree of flexibility having regard to the design and operational requirements of a contemporary hospital and having regards to the long-established hospital use on this particular site.

We are of the opinion that the bulk and scale of the development is acceptable given the design initiatives adopted including appropriate spatial separation, deep soil perimeter landscape opportunity, fixed privacy screening and the highly articulated and modulated building facades proposed.

Further, we are of the opinion that most observers would not find the development offensive, jarring or unsympathetic in a streetscape context. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings and able to coexist in harmony.

Comment:

As stated earlier in detail in this report, the proposed bulk and scale of the proposal is not supported. The proposal with its three-storey presentation towards the rear of the site would contain significant adverse impacts onto the surrounding residences to the north and to the adjoining dwelling at No. 41 Kenneth Street. The proposal is recommended for refusal due its overdeveloped nature and over-intensification of use on the subject site. To maintain the existing low-density residential amenity of the locality, it is recommended that the site does not exceed three storeys in nature and be restricted to a maximum of two storeys instead.

Landscaping

LCDP Part C Part 1.5(a) Landscaped Area requires:

A minimum of 35% of the site is to be landscaped area. A minimum dimension of 1m is required for inclusion as landscaped area.

The proposed landscaped area is below the minimum 35% area required where a total of approximately 20.16% is proposed. The existing landscaped area is at approximately 26.43%.

The relevant objectives of Part 1.5 Landscaped Area are as follows:

- 1 To provide privacy and amenity.*
- 2 To retain and provide for significant vegetation, particularly large and medium sized trees and to provide continuous vegetation corridors.*
- 3 To conserve significant natural features of the site.*
- 4 To assist with on-site stormwater management.*

The applicant provided the following justifications as follows:

The proposal provides for a total landscaped area as defined of 804.77m² or 30.39%.

Although non-compliant with the 35% landscaped area control the proposal satisfies the associated objectives by providing deep soil landscape opportunity adjacent to the only immediately adjoining residential property which will assist in the maintenance of appropriate privacy and amenity. The extent of landscaping proposed will not prevent the appropriate on-site management of stormwater with there being no significant natural features on the site. The company landscape plan demonstrates that the landscaped area is proposed provide for the provision/ retention of significant vegetation including large and medium sized trees.

Accordingly, it can be demonstrated that the quantum and quality of the landscaped area proposed achieves the objectives of the control without strict compliance with the numerical provision. Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

The accompanying arborist report prepared by Growing My Way Tree Consultants confirms that the proposal requires the removal of two (2) trees being Tree 1 - London Plane Tree and Tree 3 – Kaffir Plum Tree both of which are exotics and supported for removal due to their incompatibility with the health services facility use established on the site. Such tree loss is appropriately compensated for through the implementation of the site landscape regime as depicted on the landscape plans prepared by Vision Dynamics.

These landscape plans incorporate deep soil landscaping adjacent to the rear yard of 41 Kenneth Street, on slab planting above the proposed hydrotherapy pool and additional tree plantings adjacent to the Kenneth Street frontage.

Comment:

The abovementioned bulk and scale matters are further exacerbated by the further reduction in the already deficient landscaped areas on the site including the proposed removal of existing rear trees which would adversely affect the existing garden setting of its current rear yard. This clear reduction in the amount of existing landscape areas also occurs within the front Kenneth Street to accommodate the new works and it would adversely impact on the existing front trees including a large Eucalyptus tree which are purportedly proposed to be retained by the applicant. The existing garden setting within the Longueville locality contains generous tree canopy cover and the removal of the trees would impact on this tree canopy character of the suburb.

The proposed variation would clearly indicate that the proposal would result in a 'large-upgraded' building being built on the subject site. The development results in an unsatisfactory

built/environmental outcome between the relevant low-density residential developments within the immediate locality as it is not appropriately located given its scale and intended use. The proposal has not been designed having regard to its environment and would unacceptably impact on surrounding land uses within this zone. The variation to the minimum landscaped areas would be directly attributed to the additional works proposed for the hospital facility.

The proposed built or site coverage would contribute to the over-intensification of use on the subject site and the proposal's incompatibility with the low-density residential nature of the site. Such a control would seek to address the potential visual and operational impacts a development may have on adjoining properties and on the locality. It is also intended to limit built form, size, and scale to ensure uses are more compatible with the intensity of the existing low-density residential character and residential amenity. The proposed further non-compliance with the minimum landscaped area control is unsatisfactory.

The proposed variation is not supported in this instance where the existing garden setting and associated trees help assisting in establishing the existing low-density character of the site and the locality.

Car Parking

LCDCP Part R Table 1 requires the following car parking rates for a hospital usage as follows:

- *1 space per registered medical practitioner + 1 space per 2 employees;*
- *1 space per 3 beds; and*
- *1 disabled space per 25 car spaces (minimum 1 disabled space)*

Based on a maximum of four medical practitioners, 12 employees and 48 beds at any one time, the proposed upgrade to the hospital would require all required total of 26 car parking spaces including two accessible spaces to be provided on the subject site with only four car parking spaces including one accessible space being provided for on site. It is also proposed to utilise the row of on-street carparking spaces located on Christina Street which would amount to a total of 24 spaces. However, it is noted that the hospital does not have exclusive or dedicated use of these spaces.

The relevant objectives of Part 2.1 Parking general are as follows:

- 1. Ensure that reasonable parking needs are met.*
- 2. Ensure that developments do not impose excessive demand for on-street parking on surrounding streets.*
- 3. Ensure that car parking spaces are convenient and accessible so that they are utilised for their intended purpose.*
- 4. Provide a lower level of car parking in areas with good access to public transport and services.*

The applicant provided the following justifications as follows:

The acceptability of the proposed access and parking arrangement is detailed in the accompanying Transport and Parking Impact Assessment prepared by Transport Strategies with the report concluding:

*There is an increasing demand for medical centre facilities as a consequence of ongoing urban development and population aging in the Lane Cove area.
The existing Longueville Private Hospital at 43- 47 Kenneth Street, Longueville presents an ideal opportunity for the expansion of services to provide for these needs.*

The transport and parking assessment provided in this report confirms that:

- ❖ there will be very accessible and frequent public transport services available for staff, patients, and visitors*
- ❖ the proposed development will present negligible traffic impacts on the surrounding road network*
- ❖ the proposed car parking provision will be suitable and appropriate given the location of the Hospital and the ample on-street carparking*
- ❖ the existing vehicle access and internal circulation arrangements will be suitable and appropriate*
- ❖ the proposed car parking layout has been designed in accordance with AS2890.1 and 6 requirements*
- ❖ the proposed loading/servicing arrangement will be suitable and adequate for the proposed development.*

Comment:

It is considered that the proposed car parking is unsatisfactory as three of the spaces provided for would be allocated the practitioners and there would be no visitor spaces available with exception of the one disabled space. Any continued reliance upon on-street parking to accommodate such a large upgrade is not supported in this instance and refusal is recommended. The applicant has not adequately dealt with this issue as it has not considered the parking or traffic impacts that would occur from a shift change and that would further exacerbate the proposed technical car parking shortfall as potential conflicts would occur as a result.

The further additional cumulative off-site impacts and additional activities would significantly affect the existing residential amenity in, particular at night through increased car movements and headlight spill. There would be an additional concern with relevant Crime Prevention Through Environmental Design (CPTED) principles with workers coming and going to their vehicles parked on the street during night-time periods. There has been no adequate consideration in providing for a safe and secure car parking facility on the subject site.

The existing facility has been operating for years now largely in an uncontrolled manner without any regulation through the mechanism of the imposition of tightly controlled conditions of consent on previous development consents or being subject to a detailed plan of management for instance. This matter has not been dealt with appropriately and refusal is recommended as all parking generated by the hospital would now need to be provided on the subject site itself.

Hospitals

LCDP Part B.10(a) Hospitals states that:

This Part applies to any hospital development in the R2 Low Density Residential Zone:

a) Ensure a 40 -bed limit on the number of beds for a hospital development in the R2 Low Density Residential Zone.

The proposal would exceed this maximum bed control and in conjunction with the other numerous proposed LEP and DCP variations already discussed above would contravene the following general Part B DCP objectives as follows:

- *Support the locality's sustainability in environmental, social and economic terms.*

- *Minimise any impacts of the redevelopment of uses not conforming to the zone they are in, by having regard to the scale and character of the surrounding neighbourhood.*
- *Balance individual and community interests to preserve and, where appropriate, improve the existing character and amenity of the municipality.*
- *Enhance the visual quality and functionality of the public and private domain interrelationship.*
- *Achieve an overall character for neighbourhoods that enhance s their sense of identity and place.*

(iia) Any planning agreement that has been entered into or any draft planning agreement that has been offered to enter into

There are no known VPA's that have been entered or proposed by the applicant or owners of the land.

(iv) The regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The relevant matters of the regulation have been considered and addressed where appropriate.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The impacts of the development have been considered and it is considered that it would have additional adverse impacts the locality, either to the natural and built environments, social or amenity levels of the locality as detailed within this report. The proposed development would provide substantial economic gains for the operator of the private hospital however it would clearly be at the expense of the immediate residential locality as the nature of the proposal would contain significant adverse impacts onto surrounding properties.

(c) The suitability of the site for the development

The site suitability for the proposed bulk and scale of the upgrade the existing hospital facility would not be acceptable having regard to the nature of the proposal involved and with the surrounding low-density residential zoned character of the subject site. Whilst the subject land would be suitable for the current development, it is considered that the proposed development as currently submitted had not been designed in a manner to ensure that it responds to site/locality specific characteristics as detailed above in this report.

(d) Any submissions made in accordance with this Act or the regulations

The proposal was notified in accordance with Council policy and approximately 44 submissions were received which raised the following concerns as follows:

| CONCERNS RAISED IN SUBMISSIONS | RESPONSE |
|---|---|
| FSR The proposed development constitutes as a gross overdevelopment of the site. The proposed development would exceed the FSR standards by a maximum of 80.5% which can no way be regarded as fair and acceptable. The proposal should be substantially reduced in FSR as it would constitute as a gross violation of Clause 4.4 of the LEP. | The concerns raised by the residents are agreed with in that the submitted written Clause 4.6 justification to the proposed FSR LEP variation is not supported in this instance for detailed reasons provided above on this report. The proposed variation by a maximum of 80.5% is a large variation which represents as a form of overdevelopment and approval of such a variation would not be suitable under the circumstances. |

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| CONCERNS RAISED IN SUBMISSIONS | RESPONSE |
|---|--|
| <p>The submitted Clause 4.6 must fail as the development proposal cannot be approved if it cannot be demonstrated that the development retains and where appropriate improves the existing low-density residential amenity of the area.</p> | <p>The submitted Clause 4.6 written justification has been assessed to be not well founded as the proposal would not retain or improve the existing low-density residential amenity of the locality and refusal would be recommended in this case.</p> |
| <p>Bulk and Scale The proposed development has a bulk and scale that is not consistent or sympathetic with surrounding developments. The Longueville suburb would be inappropriate for a hospital of this size, bulk, scale, and street presence.</p> <p>The existing hospital even though it does cause issues, it currently has relatively a low profile where it has more of a size or the 'look and feel' of connected houses. The proposal has a significantly large two/three storey, purpose-built hospital which is commercial in appearance and nature.</p> <p>Whilst the development is that of a hospital and not a residential dwelling, it should be noted that the predominant use in the locality is low density residential housing on large, landscaped blocks with off-street parking. It would be incumbent on the applicant that the proposed design reflects this dominant nature and character of the area.</p> | <p>The concerns raised are again agreed with as the proposed bulk and scale of the development would be far too excessive. The development has not been designed in a manner which would be compatible or sympathetic to the immediate locality due to the inappropriate nature of the works being proposed.</p> <p>It is considered that the existing bulk and scale of the existing hospital is at its maximum appropriate size and further substantial works on the subject site would not be satisfactory in its current neighbourhood context. The development due to the large upgrades involved if approved would be much more commercial in nature than what is currently there.</p> <p>The ultimate onus would be on the applicant to demonstrate that the proposal would respect the existing local character and it is considered that this had not occurred. Refusal is recommended.</p> |
| <p>Landscaped Area The proposed development does not comply with the 35% landscaped area control. The lack of appropriate landscaping on the site would not be in character with the surrounding developments. The existing locality contains a high degree of landscaping and greenery seen within dwellings and recreational areas in Kenneth Street and surrounding streets including Kingsford Smith Oval.</p> | <p>Council's Landscaped Architect has assessed the proposal including the submitted landscaped plans and have raised concerns with the proposal. As discussed above in this report, the proposed further reduction in the amount of existing landscaped area on the subject site from 26% to 20% where the DCP requires a minimum of 35% is not considered to be appropriate.</p> <p>This is another clear indication that the proposal would be an overdevelopment with an excessive built scale being proposed. The proposed landscape outcome is not supported as it would adversely affect the 'garden' setting of the subject site and in turn would be incompatible with the residential locale.</p> |
| <p>Tree Removal The removal of important old growth trees which greatly enhance the amenity of the</p> | <p>Council's Tree officer has assessed the proposal including the submitted plans and arborist report and have raised concerns with the proposal. The</p> |

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| CONCERNS RAISED IN SUBMISSIONS | RESPONSE |
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| <p>area and acts as an established screen would be severely lost with the planned upgrade to the hospital. No suitable tree canopy replacement is being proposed.</p> | <p>proposed removal of trees within the existing rear yard of the existing site and the adverse impacts on the trees fronting Kenneth Street would result by the proposed works are not supported.</p> <p>This would also be an indicator as to the inappropriate variation being proposed to the minimum landscaped area and the overdeveloped nature of the development.</p> |
| <p>Carparking and Traffic</p> <p>The shortfall in carparking by 85% is not appropriate as there is already a shortage of on-street parking along Kenneth Street which is a peninsular thoroughfare and the narrow surrounding street network. This demand is attributed to the existing usage of the hospital and, also to:</p> <ul style="list-style-type: none"> - Tennis clubs. - Public parks including Kingsford Smith Oval. - Churches including one opposite the site. - Residents and visitors. - Sporting clubs including the Longueville Sporting Club operating on most nights. - Lack of viable public transport with only minimal bus routes available generally on an hourly basis with reduced capacity on Saturdays and not all on Sundays. <p>It's inappropriate to suggest that the current 24 public car spaces adjoining the site or even further afield would be adequate when at present they are being used almost exclusively by the hospital, leaving a shortage for church goers, residents, visitors for instance.</p> <p>The proposed expansion and the lack of onsite parking proposed (only four spaces are provided for to be exclusively used by three out of the four medical practitioners) make the current traffic situation much worse. The operators should provide the 26 on-site carparking as required by the DCP or no approval be granted. Further, there are no allowances for bicycle racks. Regardless, this small site cannot accommodate the increase in parking and</p> | <p>Council's Traffic Engineer has assessed the proposal including the submitted traffic report and has raised concerns with the proposal. The large shortfall in carparking is not supported and all required carparking should be provided entirely on the subject site.</p> <p>The continued reliance on on-street carparking is not an appropriate outcome considering the large upgrades being proposed on the site. This continued reliance would clearly involve additional off-site traffic impacts on the immediate locality.</p> <p>It would be clear to note that there have been some competing conflicts between residents, the hospital user, church goers and other non-residential uses within Longueville. Approval of the subject application would further compound these existing problems and it is considered that the applicant has not adequately addressed this matter.</p> <p>Further, the applicant had not demonstrated in their designs that the use of the small car parking area on the subject site at the rear could contain internal conflicts between the proposed ambulance bay and the minimal four car parking spaces being proposed.</p> <p>Such a conflict would not resolve the existing issues of the existing ambulance bay being currently used on Kenneth Street and would result in this rear car parking area not being utilised at all due its inefficient design off Lorna Leigh Lane. It is considered that the applicant has not appropriately addressed issues such as waste collection and deliveries to the site. Such an outcome would result in shifting the impacts off-site onto the local street network, the currently quiet laneway, and surrounding residences.</p> <p>The additional off-site impacts would involve increased car movements and headlight spill. There would be workers or visitors coming and</p> |

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| CONCERNS RAISED IN SUBMISSIONS | RESPONSE |
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| <p>traffic.</p> <p>How would the proposal cope with increased ambulances, commercial suppliers, staff, and visitors. Lorna Leigh Lane is a quiet laneway which is now to be used as an accessway for ambulances, commercial deliveries, and trucks.</p> | <p>going to their vehicles parked on the street during night-time periods. There has been no adequate consideration in providing for a safe and secure car parking facility on the subject site.</p> <p>None of the above outcomes would improve the relevant car parking, traffic, amenity levels and safety matters that are currently being experienced within the area. To maintain the existing low-density residential amenity of the locality, it is recommended that the proposal be refused.</p> |
| <p>Privacy and Amenity</p> <p>The proposal would comprise now a part two and part three level structure with privacy impacts onto surrounding homes due to the high number of new rooms. Proposed mitigants of louvres of windows are insufficient.</p> <p>The overshadowing over Kenneth Street at 3pm is pronounced and would reduce the amenity of the streetscape or the Longueville neighbourhood.</p> <p>The proposal would not address the acoustic/visual impacts that the hydrotherapy pool, plant equipment and gymnasium with a patio would have. The pool and gym would be a magnet for out-patients to use as distinct from patients of the hospital.</p> <p>Privacy and amenity would be adversely impacted due to increased 24-hour noise impacts associated with higher activities such as increased traffic flows as well as staff/visitor volumes, waste collection, new hydrotherapy pool, gym, and plant equipment.</p> | <p>It is considered that the subject proposal does not maintain or enhance the relevant privacy and amenity levels onto surrounding properties. The introduction of new upper-level rooms with windows would adversely impact on this relatively quiet neighbourhood as the nature of the works would now evolve into a more unsympathetic commercial built form outcome.</p> <p>Due to the orientation of the subject being located on a street corner, it is considered that the overshadowing impacts would be reasonable and not be a reason for refusal alone.</p> <p>The proposed pool, plant and gym would contribute to this newly introduced commercial feel to the area which would indicate that there would be too many adverse cumulative activities being conducted on this site which in turn would affect surrounding residences.</p> <p>The relevant privacy and amenity levels would further be impacted by the traffic impacts discussed above. The proposal is recommended for refusal due to the proposed over-intensification of usage being conducted on the subject site.</p> |
| <p>Impact on No. 41 Kenneth Avenue</p> <p>The proposal would have the effect of adversely impacting on No. 41 Kenneth Street both due to the placement of the new works all along the northern boundary and replacing what was essential a rear yard. Windows from patient rooms 109-111 would view the adjoining property's upper veranda and bedroom windows. Excessive reflective materials, air conditioning units, plant rooms with vents would be used further impacting on this property.</p> | <p>It is considered that the nature of the subject proposal would have the greatest adverse impact onto the adjoining property at No. 41 Kenneth Avenue and the impacts onto this neighbour alone would be sufficient to refuse the subject application. The design of the development would be entirely incompatible with this property and would contain significant adverse visual and privacy impacts on its residents.</p> <p>The design has proposed to build all along the northern boundary without any visual relief and has removed any visual, built or landscaping buffer or</p> |

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| CONCERNS RAISED IN SUBMISSIONS | RESPONSE |
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| | separation that currently exist. Any outlook that the residents have would be removed by this proposal. The proposal has not adequately addressed the relevant impacts onto No. 41 Kenneth Street and the impacts are not supported. |
| Setbacks The proposed building setbacks are inappropriate, and the setbacks should be increased to minimise such adverse impacts at the northwest portion of the subject site. | <p>As discussed above in this report, the proposed building setbacks such as the rear setbacks, reduced front Kenneth Street and setbacks to No. 41 Kenneth Street are not supported. The proposed setbacks would contribute to the inappropriate nature of the proposed works involved to the upgrade of the hospital affecting the privacy/amenity levels of surrounding residents and trees on the subject site.</p> <p>It is noted that the proposed setbacks also contribute to the excessive FSR, bulk and scale and reduced landscaped areas on the subject site to unacceptable levels.</p> |
| Building Design The building proposed does not contain the integrity of the design of the existing buildings which are clearly residential in nature. | The design of the building itself is relatively a subjective matter however as mentioned above the bulk and scale of the works proposed are not supported. |
| Economic Impact The operator provides for the economic benefit that it would themselves benefit from through doubling the size of this commercial venture however no regard had been paid to the loss of amenity suffered by surrounding residents. | Whilst the applicant has demonstrated that there would be a need for the proposed upgrade to meet their own operational requirements, it is agreed that it should not come at the expense of the existing character of the immediate locality. It is considered that the applicant had not appropriately addressed this concern. |
| Construction Impacts The construction of the development would affect nearby properties by dirt, dust, traffic, and noise impacts. | Such potential could have been addressed through submission of additional information or ultimately through the imposition of relevant conditions of consent had the subject application been recommended for approval. |
| Other The proposal would have a detrimental impact in relation to: <ul style="list-style-type: none"> - Biodiversity. - Light Spill. - Flora and fauna. - Climate change. - Vision of Lane Cove Local Strategic Planning Statement. | <p>The proposal would have been appropriate in relation to biodiversity, flora, fauna, and climate change considerations. Light spill would have been controlled through appropriate conditions to reduce such impacts where possible. However, refusal of the subject application would assist in addressing the above concerns raised.</p> <p>The Lane Cove Strategic Planning Statement outlines the aspirations of community residents for the Lane Cove Local Government Area including providing for a vision. The social, economic, built, and environmental impacts have been identified and addressed in the report and refusal would assist in achieving the sought after outcomes of this strategic plan.</p> |

Based on the nature of the concerns raised above, it is recommended that the subject application be refused.

(e) Public Interest

Approval of the subject proposal would be contrary to the public interest based on the reasons provided above in this report. The proposal would not meet the relevant objectives of Lane Cove's LEP and DCP. The proposal would not maintain or improve the existing low-density residential character of the Longueville locality.

SECTION 7.11 ASSESSMENT

In accordance with Council's Section 7.11 Contributions Plan are applicable to a hospital (commercial) development at a rate of \$155.98 per m² of GFA (2023/2024 Fees & Charges Schedule). In this regard, the following contributions are payable:

- 1,215.8m² additional proposed GFA x \$155.98 = **\$189,640.48.**

A relevant Section 7.11 Contributions condition would have been imposed should the proposal had been recommended for approval.

INTERNAL REFERRALS

The application was referred to following sections of Council:

- Traffic
- Engineering
- Environmental Health
- Resource Recovery
- Tree Management
- Landscaping

Outstanding issues raised from each section are provided below as follows:

TRAFFIC COMMENTS

Council's Traffic Engineer officer has assessed the proposal and made the following comments:

The proposed development does not satisfy Council's DCP car parking rates. In addition, there is no allocated ambulance bay. Swept paths are not provided to see if the parked ambulance in temporary bay is blocking the other car parking spaces. Council will not consider any new development or addition to the existing building can utilise the surrounding on-street carparking spaces. The required car parking spaces should be provided within the property boundary as per the Council's DCP.

The comments provided by Council's Traffic Engineer are supported and refusal of the subject application is recommended.

ENGINEERING COMMENTS

Council's Drainage Engineer officer has assessed the proposal and made the following comments:

As part of this DA, this applicant is planning to install new pipe system along Lorna Leigh Lane from the site to existing Council pit. Council is to assess and approve this drainage plan of proposed work on Lorna Leigh Lane. A detailed design plan of this drainage system indicating plan, longitudinal section, underground services and hydraulic calculations has not been submitted.

It is advised that the applicant has not provided any additional information or a response in relation to the above request.

ENVIRONMENTAL HEALTH COMMENTS

Council's Environmental Health officer has assessed the proposal and made the following comments:

Referring to the above subject line and address, I have assessed the DA and request for further information:

Construction Noise & Vibration Management Plan

To provide procedures to prevent excessive noise and vibration being emitted from onsite demolition, excavation and construction works which may cause unreasonable loss of amenity to nearby receivers.

Construction & Demolition Waste Management Plan

To understand what excess materials are likely to be generated and then focus on how the generation of those excess materials can either be avoided or the material can be diverted from landfill. Including the procedures used to collect and dispose of hazardous waste.

Hydrotherapy pool filter and pool pump

To provide the level of the noise impact of this equipment. Influenced by the amount of noise produced by the equipment and the distance from the equipment to any affected neighbours. The Noise Impact Assessment report reference 230042 from Pulse White Noise Acoustics, dated 12 April 2023, revision R0 has not mentioned the operational noise impacts from the pool filter and pump.

It is advised that the applicant has not provided any additional information or a response in relation to the above requests.

RESOURCE RECOVERY COMMENTS

Council's Waste officer has assessed the proposal and made the following comments:

It is advised that there has been no submission of the required Waste Management Plan (WMP) to address ongoing waste services (for example (but not limited to), contractor, responsibilities of stakeholders, storage locations, generation estimates, service location, etc).

The subject proposal has not identified any waste receptacle on the architectural plans to include:

- *bin locations in common areas such as the gym, dining room, etc.*
- *bin in kitchen.*

The method of service (onsite, off-site on kerbside, etc) (note: the applicant would be able to use existing arrangements however they would need to specify this and explain the current method).

It is advised that the applicant has not provided any additional information or a response in relation to the above request.

TREE COMMENTS

Council's Tree officer has assessed the proposal and made the following comments:

The supplied plans and supporting documentation have been reviewed. The proposal requests the removal of four (4) trees on site to facilitate additions and alterations to the existing hospital.

Demolition plan A051 (22/5/23) details the following trees to be removed (numbers taken from Arborist report). Tree 1 Platanus acerifolius (London Plane), 3 Harpephyllum caffrum (Kaffir Plum), 4 Eucalyptus botryoides (Bangalay) and 5 Callistemon viminalis (Weeping Bottlebrush).

There is an inconsistency between the supplied plans and supporting documentation. Trees #4 and #5 are scheduled for retention on the proposed Landscape Plan, while recommended for retention within the supplied Arborist report.

T5 is a significant, locally indigenous Eucalyptus botryoides (Bangalay) in good health and condition, with a pronounced root crown; this tree has been proposed for removal. Using a Leica disto x4 laser measure, the existing building was measured to be 4.2m from the centre of the trunk.

Supplied plans show the extension of the structure to be 2m from the centre of the trunk, with a garden bed / retaining structure intruding to within 50cm. This is well within the 3.27m Structural Root Zone as stated within the supplied Arborist report. To the west of the tree, the entrance pathway has been relocated to within 1.5m to centre of the trunk, with the retaining structure offset 50cm.

The supplied Arborist report details protection methodology for tree 5 in the event it is retained, subject to no roots greater than 50mm diameter are severed. With two sides of the Structural Root Zone compromised, and with no area contiguous to the TPZ free from development. The likelihood the tree will not be compromised due to the introduction of structures within the SRZ is low.

The removal of T5, Eucalyptus botryoides (Bangalay) is in contravention of the following provisions / objectives outlined within the LCC DCP Part J:

- 1.4 (3)
- 2.2.1 (1)
- 2.2.5 (i)
- 3.1 (1,2)

The proposal is not supported in its current form, and it is recommended that the proposal be refusal.

It is advised that the applicant has not provided any additional information or a response in relation to the above request. As a result, the comments provided by Council's Tree officer are supported and refusal of the subject application is recommended.

LANDSCAPING COMMENTS

Council's Landscaping Architect has assessed the proposal and made the following comments:

The proposed development is not acceptable and should be refused for the following reasons:

*The Landscape Concept Plan 23 036 DA 4 of 4 incorrectly calculates the area of deep soil landscaping as shown below resulting in a **shortfall of 14.84% or 393m²**.*

The green hatch areas represent the existing area to be counted as deep soil by Council = 743.23m² or 26.43%.

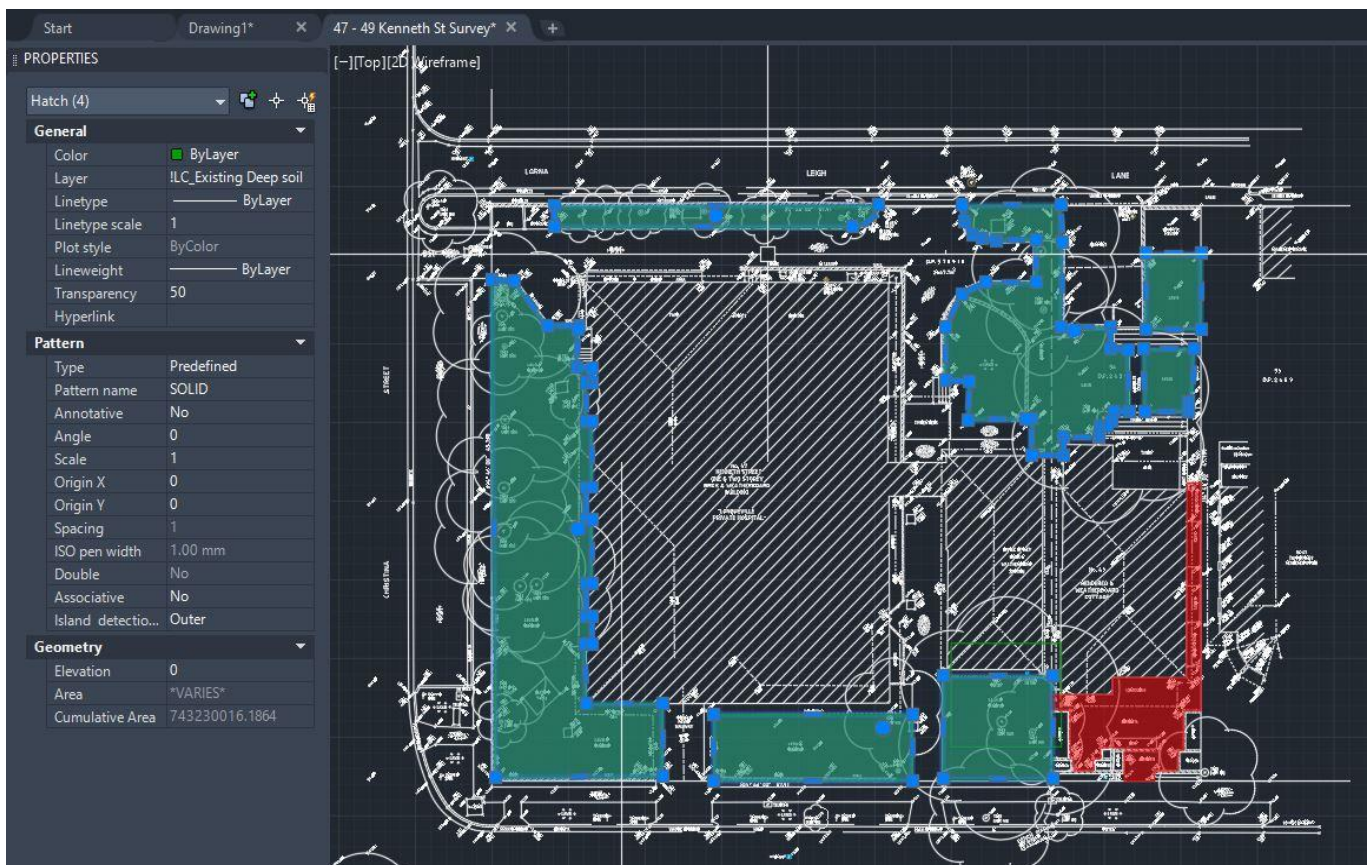


Figure 22

The red hatch area has been counted as deep soil incorrectly as this is all hardscape area = 83.13m².

The green blue areas represent the proposed area to be counted as deep soil by Council = 533.97m² or 20.16%.

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Figure 23

The proposed deep soil area along Kenneth St frontage 67.20m² a reduction of 92.71m².



Figure 24

The green hatch areas represent the existing area to be counted as deep soil by Council = 743.23m² or 26.43%.

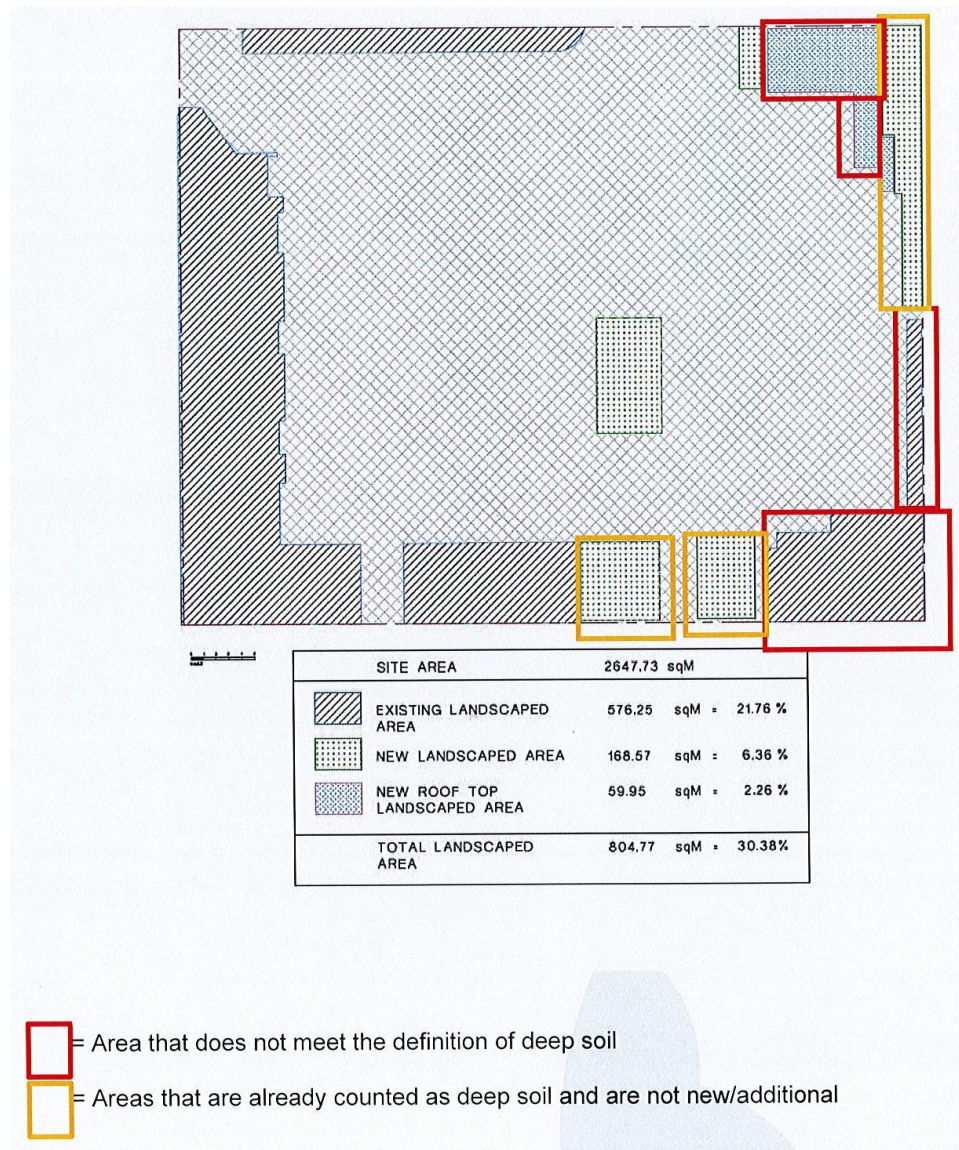


Figure 25

CONCLUSION

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have not been satisfied. The proposed development is not compliant with the numerical FSR development standard within LCLEP 2009. The submitted Clause 4.6 written request for the proposed breach is not considered satisfactory and not well-founded as detailed in this report. The proposed substantial upgrade to the existing private Longueville Hospital is not considered compatible with the local low-density residential character of Longueville where it would contain significant adverse impacts onto surrounding properties and onto the locality itself. The proposed bulk and scale of the development is not supported.

The proposed substantial FSR is not appropriate as evidenced through the proposed variations to the relevant building setbacks; cut/excavation; number of storeys; landscaping; and car parking DCP control which assist in formulating as a guide as a minimum on what would constitute as 'appropriate' development within an established low-density residential locality such as the

Longueville suburb. The proposed variations clearly demonstrate that the subject development would not achieve a reasonable built, landscaped and car parking/traffic outcome at this location. The proposed development would have unreasonable visual and off-site impacts onto surrounding residences and the locality.

The proposal was notified in accordance with Council policy and approximately 44 submissions were received raising extensive concerns with the inappropriate nature of the proposed scale of works being proposed on the subject site without providing for adequate on-street carparking. The clear intention to continue to rely heavily on the current on-street parking arrangement is not adequate in this instance. It is considered that the proposal does not involve a reasonable designed outcome which would be entirely inconsistent with the existing other built forms within the locality.

The proposed development would satisfy the operational needs of the Longueville private hospital including providing for an economic benefit to the operators at the same time however it would not continue to maintain or improve on the relevant amenity objectives to surrounding developments. The Development Application is recommended for refusal on this basis.

RECOMMENDATION

The applicant has made a written request pursuant to Section 4.6 of the *Lane Cove Local Environmental Plan 2009*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel could not be satisfied that compliance with the Floor Space Ratio (FSR) development standard would be unreasonable or unnecessary in the circumstances of this case and that there would not be sufficient environmental planning grounds to support the large numerical technical variation being proposed at hand. The proposed development would not be in the public interest because the nature and scale of exceedance would be inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.

That pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979 the Sydney North Planning Panel at its meeting of 22 November 2023 refuse the subject Development Application DA72/2023 for the proposed alterations and additions to an existing private hospital (Longueville Hospital) development on land known as Nos. 43-47 Kenneth Street, Longueville be refused for the following reasons as follows on the following grounds:

1. The proposed Floor Space Ratio (FSR) variation under the FSR map referred to in *Clause 4.4(2) of Lane Cove Local Environmental Plan (LCLEP) 2009* and the applicant's written request pursuant to *Clause 4.6 of LCLEP 2009* is not supported as the proposed development would have a maximum FSR of 1:1 which would exceed the maximum 0.6:1 FSR development standard and a maximum FSR of 0.9:1 which would exceed the maximum 0.5:1 FSR development standard. (*Section 4.15(1)(a)(i),(b),(c) & (e) of the EP & Act, 1979*).

2. The proposed development cannot be granted due to the inability to fully satisfy:

- *Clause 6.1A – Earthworks of LCLEP 2009.*

The extent of excavation is not supported as it would be inconsistent with the low-density residential character of the Longueville locality. (*Section 4.15(1)(a)(i),(b),(c) & (e) of the EP & Act, 1979*).

3. The proposed development represents as an 'overdevelopment' on the subject development site and is inconsistent with the following aims, R2 Low Density Residential, and FSR objectives of *LCLEP 2009*:

- *to establish, as the first land use priority, Lane Cove's sustainability in environmental, social and*

economic terms, based on ecologically sustainable development, inter-generational equity, the application of the precautionary principle and the relationship of each property in Lane Cove with its locality – Clause 1.2(2)(a) Aims of Plan.

- *to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community - Clause 1.2(2)(b) Aims of Plan.*

- *to ensure that the bulk and scale of development is compatible with the character of the locality – Clause 4.4(1)(a) – Floor space ratio.*

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area – Zone R2 Low Density Residential objective dot point 3.*

- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment – Zone R2 Low Density Residential objective dot point 5.*

(Section 4.15(a)(i),(b),(c) and (e) of the EP & A Act, 1979).

4. The development does not comply with the following requirements of *Lane Cove Development Control Plan (LCDCP) 2009 Part C – Residential Development* in respect of:

- *Part 1.3.4(a) Rear Setbacks.*

- *Part 1.3.1(a) Front Setbacks.*

- *Part 1.3 Setbacks Objectives.*

- *Parts 1.6(a),(b),(d),(e) Cut and Fill.*

- *Part 1.6 Cut and Fill Objectives.*

- *Part 1.7.1(e) Height.*

- *Part 1.7 Building Design Objectives.*

- *Part 1.5(a) Landscaped Area.*

- *Part 1.5 Landscaped Area Objectives.*

(Section 4.15(a)(iii),(b),(c) and (e) of the EP & A Act, 1979).

5. The development does not comply with the following requirements of *LCDCP 2009 Part R – Traffic, Transport and Parking* in respect of:

- *Part 2.3 Car Parking Rates – Table 1.*

- *Part 2.1 Parking General Objectives.*

(Section 4.15(a)(iii),(b),(c) and (e) of the EP & A Act, 1979).

6. The development does not comply with *Part B.10(a) Hospitals Lane Cove Development Control Plan (LCDCP) 2009* and *Part B.1 General Objectives for the DCP* dot points 2 and 7-10.

7. The proposal would unreasonably add to the intensity, bulk and scale of the development resulting in an overdevelopment of the site. The proposed development would have an unreasonable visual impact upon the existing low-density residential locality. The impacts on the environmental, built and social environments on the locality are unsatisfactory. The cumulative impact of the proposal is unreasonable.

(Section 4.15(1)(a)(iii),(b),(c) and (e) of the EP & A Act, 1979).

8. The subject Development Application should be refused because the proposal would represent as an overdevelopment and the overall design would not be suitable for the subject development site having regard to the unnecessary impacts that the proposed intensification would have on the existing residential locality.

(Section 4.15(1)(a)(iii),(b),(c) and (e) of the EP & A Act, 1979).

9. The subject Development Application should be refused primarily for the reasons provided above, and approval of the application would be contrary to the public interest. Approval of the proposal would be contrary to the public interest as it would provide for an overdevelopment of the

subject development site that would depart from the existing local Longueville character which should respond to and be informed by a more sensitive building design.

(Section 4.15(1)(a)(iii), (b), (c), (d) and (e) of the EP & A Act, 1979).

10. Insufficient information has been submitted in support of the application in accordance with *Clause 36 of the Environmental Planning & Assessment Regulations (EPAR) 2021* with respect to:

- The adequate design or provision of parking, access, drainage, and resource recovery arrangements.
- Submission of a Construction Noise & Vibration Management Plan and Construction & Demolition Waste Management Plan.
- Tree impacts on trees proposed to be retained.
- Acoustical details from the proposed hydrotherapy pool filter and pool pump.

(Section 4.15(1)(a)(iv) of the EP & A Act, 1979).

Mark Brisby
Director - Planning and Sustainability
Planning and Sustainability Division

ATTACHMENTS:

There are no supporting documents for this report.